

# IMPLEMENTATION OF THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

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## HEARINGS

BEFORE THE  
SUBCOMMITTEE ON  
TRANSPORTATION AND INFRASTRUCTURE  
OF THE  
COMMITTEE ON  
ENVIRONMENT AND PUBLIC WORKS  
UNITED STATES SENATE  
ONE HUNDRED SIXTH CONGRESS  
FIRST SESSION

APRIL 15, 29, AND JUNE 9, 1999

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# C O N T E N T S

	Page
<b>APRIL 15, 1999</b> <b>GENERAL OVERVIEW</b> <b>OPENING STATEMENTS</b>	
Baucus, Hon. Max, U.S. Senator from the State of Montana .....	4
Graham, Hon. Bob, U.S. Senator from the State of Florida .....	39
Inhofe, Hon. Jim, U.S. Senator from the State of Oklahoma .....	38
Thomas, Hon. Craig, U.S. Senator from the State of Wyoming .....	3
Voinovich, Hon. George, U.S. Senator from the State of Ohio .....	1
WITNESSES	
Barr, Kenneth L., Mayor, Ft. Worth, TX, on behalf of the U.S. Conference of Mayors .....	26
Prepared statement .....	63
Bartlett, Robert T., Mayor, Monrovia, CA, on behalf of the National League of Cities .....	28
Prepared statement .....	72
Bowlden, Taylor R., vice president, Policy and Government Affairs, American Highway Users Alliance .....	35
Prepared statement .....	77
Bray, Hon. Joan, Representative, Missouri State Legislature, on behalf of the National Conference of State Legislators .....	21
Prepared statement .....	59
Jacobson Jean, county executive, Racine County, WI, on behalf of the Na- tional Association of Counties .....	23
Prepared statement .....	61
Kienitz, Roy, executive director, Surface Transportation Policy Project .....	32
Prepared statement .....	75
Responses to additional questions from Senator Chafee .....	76
Linton, Gordon, Administrator, Federal Transit Administration .....	8
Prepared statement .....	40
Martinez, Ricardo, Administrator, National Highway Traffic Safety Adminis- tration .....	10
Prepared statement .....	40
Responses to additional questions from:	
Senator Chafee .....	58
Senator Voinovich .....	59
Wykle, Kenneth, Administrator, Federal Highway Administration .....	5
Prepared statement .....	40
Responses to additional questions from:	
Senator Chafee .....	53
Senator Voinovich .....	56
Letter to Senator Chafee .....	58
ADDITIONAL MATERIAL	
Fact Sheets, Traffic Safety Facts 1997 .....	114-177
Report, Listening to America: Implementing TEA-21 .....	104-114
Statements:	
Electric Vehicle Association of the Americas .....	82
National Highway Traffic Safety Administration .....	83

# IV

Page

## APRIL 29, 1999 SECTION 1309 IMPLEMENTATION OPENING STATEMENTS

Baucus, Hon. Max, U.S. Senator from the State of Montana .....	181, 210
Chafee, Hon. John H., U.S. Senator from the State of Rhode Island .....	181
Inhofe, Hon. Jim, U.S. Senator from the State of Oklahoma .....	210
Voinovich, Hon. George V., U.S. Senator from the State of Ohio .....	179

## WITNESSES

Alb, Jerry, Director, Environmental Services, Washington State Department of Transportation .....	189
Prepared statement .....	272
Responses to additional questions from Senator Chafee .....	275
Carper, Hon. Thomas, Governor, State of Delaware, on behalf of the National Governors' Association .....	182
Prepared statement .....	211
Report, Federal Highway Administration and Federal Transit Administration .....	213
Holmes, Brian R., executive secretary, Connecticut Road Builders Association, American Road and Transportation Builders Association .....	201
Prepared statement .....	290
Kienitz, Roy, executive director, Surface Transportation Policy Project .....	199
Prepared statement .....	288
Leslie, Mitch, president, Montana Contractors' Association, Associated General Contractors .....	203
Prepared statement .....	295
Responses to additional questions from:	
Senator Chafee .....	300
Senator Voinovich .....	299
Mills, Hon. Brian, commissioner, Cass County Missouri, chairman, Association of Metropolitan Planning Organizations .....	188
Issue paper: Recommendations for Implementing TEA-21 .....	264
Prepared statement .....	260
Responses to additional questions from:	
Senator Chafee .....	270
Senator Voinovich .....	270
Stowe, Tim, chairman, Transportation Programs, American Consulting Engineers Council .....	197
Prepared statement .....	281
Report, Environmental Streamlining: Measuring Results .....	283
Responses to additional questions from:	
Senator Chafee .....	285
Senator Voinovich .....	287
Thompson, Charles, Secretary of Wisconsin Department of Transportation, chairman of Standing Committee on Environment, AASHTO .....	185
Letters:	
American Consulting Engineers Council .....	284
AASHTO .....	233
Prepared statement .....	230
Report, Environmental Streamlining .....	283
Table, AASHTO .....	236-259

## ADDITIONAL MATERIAL

Letter, American Association of State Highway and Transportation Officials (AASHTO) .....	233
Reports:	
Environmental Streamlining: Measuring Results .....	283
Federal Highway Administration and Federal Transit Administration .....	213
Table, AASHTO Response to FHWA/FTA Document: TEA-21 Planning and Environmental Provisions .....	236-259

**JUNE 9, 1999**  
**ENVIRONMENTAL STREAMLINING**  
**OPENING STATEMENTS**

Baucus, Hon. Max, U.S. Senator from the State of Montana .....	304
Chafee, Hon. John H., U.S. Senator from the State of Rhode Island .....	303
Graham, Hon. Bob, U.S. Senator from the State of Florida .....	310
Smith, Hon. Robert, U.S. Senator from the State of New Hampshire .....	324
Thomas, Hon. Craig, U.S. Senator from the State of Wyoming .....	305
Voinovich, Hon. George V., U.S. Senator from the State of Ohio .....	301

**WITNESSES**

Conti, Eugene, Assistant Secretary of Transportation Policy, Department of Transportation .....	307
Prepared statement .....	331
Responses to additional questions from Senator Voinovich .....	335
Frampton, George T., acting director, Council on Environmental Quality .....	306
Prepared statement .....	329

**ADDITIONAL MATERIAL**

Memo: Final Draft—Environmental Streamlining Memorandum of Under- standing .....	327
Letter, To Kenneth Wykle, several Senators .....	328
List, Highway Projects Opposed by the Sierra Club .....	339
Statement of American Trucking Association, Inc. ....	336

# **IMPLEMENTATION OF THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY**

**THURSDAY, APRIL 15, 1999**

U.S. SENATE,  
SUBCOMMITTEE ON TRANSPORTATION AND  
INFRASTRUCTURE,  
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,  
*Washington, DC.*

## **GENERAL OVERVIEW**

The subcommittee met, pursuant to notice, at 9:32 a.m. in room 406, Senate Dirksen Building, Hon. George Voinovich (chairman of the subcommittee) presiding.

Present: Senators Voinovich, Baucus, Thomas, and Chafee [ex officio].

## **OPENING STATEMENT OF HON. GEORGE VOINOVICH, U.S. SENATOR FROM THE STATE OF OHIO**

Senator VOINOVICH. Good morning. I'd like to welcome all of you.

As a freshman Senator, I've been given the honor to kickoff this hearing as the subcommittee chairman. I really am grateful the chairman of the Environment and Public Works Committee, Senator Chafee, is here with us this morning.

I am pleased to welcome Ken Wykle, Federal Highway Administrator; Gordon Linton, Federal Transit Administrator; and Dr. Richard Martinez the National Highway Traffic and Safety Administrator.

I'd also like to welcome State representative, Joan Bray of St. Louis who is Missouri chairwoman of the Transportation Committee of the National Conference of State Legislators; Mayor Kenneth L. Barr of Fort Worth, TX who is vice chairman of the Transportation Committee of the U.S. Conference of Mayors; Mayor Robert Bartlett of Monrovia, CA on behalf of the National League of Cities who is chairman of the Committee on Transportation and Infrastructure Services.

On the third panel, I'd like to welcome Taylor Bowlden of American Highway Users Alliance and Ray Kienitz with the Surface Transportation Policy Project.

The Transportation Equity Act for the 21st Century, TEA-21 as it is known, was accomplished through a long negotiation process involving many of the panelists who are here today. Although I was not a member of the U.S. Senate last year, I was involved as chairman of the National Governors Association in that negotiation in

a modest fashion. I must say that if it were not for the leadership of others on this committee, like Senators Chafee, Warner and Baucus, I don't believe that TEA-21 would have become a reality.

This is especially true as it relates to the revenue or line-budget authority for firewalls, whereby today everything that goes into the Highway Trust Fund is spent for its intended purpose. That was a major accomplishment.

I am pleased with the final results of TEA-21. There is now balance among the 50 States because TEA-21 ensured equitable funding formulas and again that was the subject of a great deal of negotiation. In fact, because of the changes in TEA-21 to more equitably distribute highway trust funds, my own State will receive 23 percent more funding than we did under ISTEA.

Our subcommittee goal is to ensure that this legislation is being implemented properly with appropriate oversight involving the Administration, State and local governments and the user community. We are starting off our hearing series today with a general overview of TEA-21 and its implementation. On April 29, we will hold our second hearing on streamlining and project delivery. At that hearing, we will have various interested parties testifying on their views on implementation of TEA-21, Section 1309, Environmental Streamlining. The Administration will then testify on May 20, reacting to testimony given on the 29th and their TEA-21 planning and environmental provisions, title options for discussion. So we will have three hearings over this to see how we can make sure this is done properly over the next several years.

We have to start looking at the big picture. I believe we need to work together on a more comprehensive approach. One of the things I promised to do when I came here was to help the Federal Government become a better partner to State and local governments. I think that is very important. We are all in this together.

It's imperative that we coordinate our efforts between the agencies, Congress and the States and localities and the user community to maximize the benefits of TEA-21. TEA-21 builds on the foundation achieved in ISTEA, ensuring there is shared decision-making between the Federal, State and local governments based upon public participation in the planning process.

I remain strongly committed as the new subcommittee chairman to the structure set up by my colleagues in TEA-21. I will work particularly hard to ensure that State and local governments who know best what their individual priorities are continue to contribute positively in setting our transportation priorities.

While the Administration proposed in its budget submission to reopen TEA-21, I can say frankly that I do not intend to do so, nor do I believe anyone on the subcommittee or the full committee has any interest in doing that. I think we have to lay our cards on the table early on. We should continue with the guarantees administered and maintained by the formula rules established in TEA-21.

Finally, I'd like to say that Senator Inhofe and I are deeply troubled about the ramifications of a recent Federal Court case that could make highway projects across the country ineligible for Federal funds. We're going to hear a lot more about that here in the next couple of weeks. This court decision overturns a well-established EPA rule that allowed projects to move forward even if a

State's transportation plan subsequently failed to meet Clean Air goals.

We've sent a letter to EPA Administrator Carol Browner requesting that EPA appeal this decision. We do not believe it is wise to put into doubt the ability of transportation planners to proceed with much needed projects, particularly if the Government is allowed to change the rules along the way. If this court decision stands, highway projects will come to a standstill in many parts of this country, as well as the economic benefit associated with new highway construction because these projects will no longer be in compliance.

I want to say that I appreciate the witnesses being here today and I'd like to now call on Senator Chafee to make some comments.

Senator CHAFEE. Thank you very much, Mr. Chairman.

First, I want to commend you for conducting these oversight hearings. I think you have an excellent program here where you're going to do this over 3 days and I just want to join in the commendation to you for grasping the reins and moving forward with this.

I also want to second what you said about not wanting to reopen TEA-21. We have a formula there and this should not be the occasion to change those formulas that we arrived at after a lot of negotiation a year ago.

Mr. Chairman, I look forward to the witnesses and again commend you for these hearings.

Thank you.

Senator VOINOVICH. Thank you.

Senator Craig Thomas from Wyoming.

**OPENING STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR  
FROM THE STATE OF WYOMING**

Senator THOMAS. Thank you, Mr. Chairman.

I too congratulate you on getting started. What I'm going to say is a little repetitious but maybe that is all right. I want to thank you for holding the hearings and congratulate you on your chairmanship.

In the last Congress, all of the members of this committee under Senators Chafee, Warner and Baucus worked very hard and I think passed a good bill. By and large, we succeeded in doing that. Today, I want to encourage the Administration to implement TEA-21 in a manner which simplifies and not complicates the delivery of projects and programs. Further, it should not impose requirements on State and local governments which are not prescribed in the statute. They were designed to give maximum flexibility.

I do have one concern about a provision of TEA-21 that I believe needs to be changed. In the last Congress, one of my priorities was to increase the funding for Federal lands and the highway program. We succeeded in the overall 57 percent increase. As chairman of the Park Subcommittee, I'm specifically interested in road funding for our national parks which nationwide face funding requirements of nearly \$2 billion. TEA-21 gave the parks a 96 percent increase.

Unfortunately, TEA-21 brought the Federal Lands Highway Program under the obligation limitation. Thus, in this fiscal year, the



parks and roads are able to spend only \$143 million instead of the authorized \$165 million. This was not the case in the original ISTEA. With the backlogs that are faced, it seems to me this change is counterproductive. So I want to work with the chairman to see if we can do something about that. It is my understanding that these funds, if they are not obligated, could revert to the State and away from the park. I think that was not the intention and I'd like to work at changing that.

Thank you.

Senator VOINOVICH. Senator Baucus, the Ranking Minority Member on the subcommittee and the main committee, is here with us this morning. Senator Baucus, we welcome you.

**OPENING STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR  
FROM THE STATE OF MONTANA**

Senator BAUCUS. Thank you very much, Mr. Chairman. I am very pleased to be here as you open these hearings as chairman of the subcommittee.

As you know, you have big shoes to fill. Senator Warner of Virginia did an excellent job as previous chairman of the subcommittee and I know you will do as well. I very much look forward to working with you as I did with Senator Warner. Senator Chafee can tell you, and as you already know, Senator Chafee, myself and Senator Warner really burned the midnight oil putting together the highway bill, TEA-21 and we welcome you as a part of the group even though Senator Warner is no longer chairman of the subcommittee.

I have just a couple of things to say. First, this is an extremely important law. I cannot overemphasize that. Not only does it add 40 percent additional funds to the State highway programs—a big chunk of change—but it also was designed to streamline the program so that States could transfer from one program to another, one account to another and use the program more effectively to meet the State's needs. By and large, I think the program is working somewhat well, but I have a couple of points I do think have to be addressed.

The first is the President's budget proposal to redirect the additional highway funds is fiscal year 2000. That is a non-starter. We all in the Congress worked very hard to set up the allocations among States and among programs and it makes no sense to redirect the additional funds in a way other than provided for in TEA-21. Judging the reaction of my colleagues after the proposal came out, I think most will agree that is a non-starter. I, for one, will not agree to and will work hard to oppose any redirection of that money.

Second, I'm concerned about the Department's recent options paper on implementing and streamlining the provisions of TEA-21. Here again, I think the Department got a little off course. Delivering better highways is obviously complicated but TEA-21 was drafted with the belief that the existing process was too complex. My guess is that in the bowels of bureaucracy it happens everywhere, I don't mean to single out the Highway Administration or DOT, it happens within my own office, that sometimes the directions get a little bit fuzzed in the implementation because each per-

son has his own idea about things and wants to retain a little bit of ownership or whatnot. So I'd just tell the Department we've got to do a better job in streamlining.

Senators Wyden and Graham, among the leaders in the effort to streamline the process, worked on the bill while still maintaining environmental and other procedures. I think the options paper goes in the opposite direction, suggesting more complications and greater prescriptions, not a simpler, more flexible process and we need to reverse that.

The Department needs to focus more on what it can do to streamline not just interagency actions, but also its own internal procedures. That alone would achieve many of the benefits that Congress is looking for in this area. I want to tell you too that Senator Thomas is working with all of us to try to accomplish the same objectives and I thank him very much, my colleague from Wyoming, because it is a real joint effort. We want to work with the Department too.

Thank you very much.

Senator VOINOVICH. Thank you, Senator Baucus. Prior to your coming in, I made it very clear that Senator Chafee, you and Senator Warner were the spark plugs that made this happen and I wanted to publicly thank you for the role that you played. I think you took on a very, very difficult task and came back with something that was applauded across the board by all of the parties that were interested.

We're going to begin the hearing with Ken Wykle who is the Federal Highway Administrator.

At the outset, I'd like to indicate that your written testimony will be accepted into the record and if possible, if you could summarize it in a 5-minute period of a little bit more, just hit the highlights so that we make sure we get the points you'd like to make and also to make sure the rest of the people here to testify will have an opportunity to testify.

Senator Chafee, I've been a witness here before this committee and others and been way at the end of the list. By the time they got to me, I think I had about a minute.

Senator CHAFEE. Never be the last witness.

Senator VOINOVICH. So if we can move it along and respect the time of everyone, it would be great.

Thank you for coming, Mr. Wykle.

#### **STATEMENT OF KENNETH WYKLE, ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION**

Mr. WYKLE. Mr. Chairman, members of the subcommittee, we are pleased to appear before you today to discuss implementation of TEA-21. TEA-21 reflects the commitment of the Congress and the Administration to rebuild America's decaying infrastructure in a fiscally responsible manner, while increasing safety, improving the environment and expanding opportunity.

We thank this committee for your role in enacting TEA-21 and we look forward to continuing to work with you as we implement all of the provisions of this important law.

We initiated a three-pronged approach to implementation. TEA-21 funds were made available to the States the day the President

signed the bill. We expedited actions necessary to implement important safety provisions of TEA-21 and we conducted an extensive national outreach to our partners and customers, asking for their advice and assistance in implementing the new programs and provisions of this landmark legislation.

In the area of safety, Secretary Slater has made safety the Department of Transportation's top priority. TEA-21 expands and strengthens successful highway safety programs. We have issued implementing regulations for all of the new and amended highway safety programs that Congress intended to be in effect in 1999.

TEA-21 continues the 10 percent Surface Transportation Program set aside for safety. In 1999, Federal Highway made available \$154.8 million to States to be used exclusively for rail-highway crossing improvements or elimination and \$162 million exclusively for hazard elimination. An additional \$315 million are available for either of these two programs.

TEA-21 increased motor carrier safety funding by 30 percent. We have distributed \$90 million in Motor Carrier Safety Assistance Program, MCSAP, funds to the States. TEA-21 moved MCSAP from an activity-based program to a performance-based one. This approach is now implemented in all States, well ahead of the TEA-21 year 2000 requirement.

FHWA published a notice of proposed rulemaking on March 9, 1999 to implement the MCSAP changes. For the first time, this creates incentive funding to encourage States to reduce crashes.

On the day TEA-21 was signed, FHWA released the 1998 Federal Aid Highway apportionments to the States and then we apportioned the 1999 Federal Aid funds on the first day of the current fiscal year. We made available over \$450 million of discretionary funds for fiscal years 1998 and 1999 to the States and we will release an additional \$140 million in discretionary funds this spring.

FHWA listened to our partners and others and kept them informed about our implementation efforts.

To review our aggressive schedule of our activities, in July we published guidance in the Federal Register for the discretionary programs for bridges, ferries, interstate maintenance and public lands highways. In September, we published guidance for the National Scenic Byways Program and the interstate discretionary funds. In October, we published guidance for the Value Pricing Pilot Program, implementation procedures for projects to reduce the evasion of motor fuel and other highway use taxes and interim guidance for the Congestion Mitigation and Air Quality Improvement Program.

In November, we published implementation information for innovative bridge research and construction program funds. On November 12, we published a Federal Register notice soliciting participation in the new National Corridor Planning and Development Program and the Coordinated Border Infrastructure Program. We have received over 140 applications requesting \$2 billion and we expect to announce this spring the distribution of the \$124 million that we have available for this program.

The States are also moving aggressively to take advantage of the increased Federal aid highway funding available through TEA-21. As they manage these increased funds, we anticipate greater use

of the TEA-21 Federal matching flexibility provisions. We are implementing the Transportation Infrastructure Financing and Innovation Act, TIFIA. We plan to publish a final rule for this program later this spring and to select projects for the initial round of funding in fiscal year 1999 by the end of the fiscal year.

TEA-21 continues the Disadvantaged Business Enterprise Program and the Department published its final rule on February 2, 1999. The rule has three major goals: to create a level playing field, to mend but not end the DBE Program, and to make the program more effective and efficient.

TEA-21 continues the multiyear authorization funding for research and technology, but TEA-21 also changed the way R&T funding is provided. This has presented challenges. Due to obligation limits and increased designations, the amount of funds available at the Federal level has been reduced. FHWA is working with AASHTO, TRB and others to identify resources to assure priority needs are addressed, but we need increased R&T funding in the future.

TEA-21 recognizes the need to integrate technology and promotes ITS standards. Interim guidance on consistency with the national ITS architecture was published in the Federal Register in December 1998. We are developing final guidelines which will be in place in the spring of 2000, but as with R&T generally, Federal ITS funding presents challenges that must be met if we are to effectively field ITS.

In the area of planning and the environment, TEA-21 directs the Department of Transportation to develop and implement a coordinated environmental review process for highway and mass transit projects. In September, we published a notice in the Federal Register announcing a series of public meetings to be held around the country in the fall of 1998. We conducted four listening sessions.

A Federal interagency meeting was convened earlier this month and we expect to complete a memorandum of understanding within the next 2 months. We also met with the American Association of State Highway and Transportation Officials earlier this month. We received input from other stakeholders, including the American Public Transit Association, the American Association of Metropolitan Planning Organizations and the Coalition to Defend NEPA. Rulemaking will be required to change existing requirements and we expect to publish a notice of proposed rulemaking within the next 120 days, but as has been noted, this is going to be a challenge in terms of getting out the final rule.

The President announced a Livable Communities Initiative earlier this year to help communities across America achieve strong, sustainable economic growth while ensuring a high quality of life for its citizens. TEA-21 will advance this initiative.

For example, TEA-21 established the Transportation and Community and System Preservation Pilot Program, TCSP, to provide funds to State, regional and local agencies to develop innovative strategies that improve transportation systems. We published a Federal Register notice on September 16, 1998 soliciting TCSP project proposals and setting forth selection criteria. We received and evaluated 520 letters of intent, selected 49 finalists and expect to announce the final fiscal year 1999 selections soon.

FHWA continues to pursue efficiencies. We have restructured to remove a management layer and empower our State administrators and State motor carrier directors to make more decisions and certifications and to be more responsive to the States, industry, universities, associations and interest groups. We are reducing duplication within the headquarters, changing processes, reaching out to our partners and customers and emphasizing knowledge sharing and transfer. We add value through knowledge management.

Efficiencies are also being achieved by leveraging technology—Superpave, composites, polymers, fibers, epoxies, nondestructive testing, modeling and simulations. FHWA is well positioned and prepared for the next century.

In conclusion, this committee has played a pivotal role in developing and refining the programs in TEA-21. We are working aggressively to implement TEA-21 quickly and effectively. Implementation has gone smoothly and we look forward to continuing to work with you as we completely implement TEA-21.

I look forward to your questions.

Senator VOINOVICH. Thank you, Administrator Wykle. That was a mouthful.

Mr. WYKLE. It was.

[Laughter.]

Senator VOINOVICH. It sounds like you've launched a rocket.

Mr. WYKLE. There's a lot in TEA-21 to be done, sir.

Senator VOINOVICH. We will now hear from Mr. Linton, the Federal Transit Administrator.

#### **STATEMENT OF GORDON LINTON, ADMINISTRATOR, FEDERAL TRANSIT ADMINISTRATION**

Mr. LINTON. Mr. Chairman and members of the committee, it's a pleasure for me to have been asked to appear before you with my colleagues this morning. The primary committee with which I have spent a great deal of my time over the last 6 years on the Senate side has been the Banking Committee and generally the Appropriations Committee, so I welcome the opportunity, "one-DOT" to appear before you this morning as we discuss the implementation of TEA-21.

Let me say that we have had a very good run in our efforts on the transit side to implement the transit portions of TEA-21. One of our first steps was an extremely extensive period of outreach as we set out to share the changes of TEA-21 and to get input from the customers on how we should implement TEA-21.

Last year, we held many of those across the country and they all were well attended. We received a great deal of feedback and we have used that feedback in an effort to respond to our customers in our implementation of the program.

One of the key changes made in transit programs within TEA-21 was our effort to transition the industry from the old concept of operating assistance, particularly for urbanized areas over 200,000, to the utilization of a new definition of "capital project" which includes preventive maintenance. Preventive maintenance includes, under our definition, all the maintenance costs that, for the most part, were previously considered operating assistance. This change has gone extremely well. The change has operated

very smoothly. In nearly all cases, the change in definition of "capital project" has had the intended effect of providing the flexibility that the local systems need to make the transition to an all capital program.

Let me also say that one of the areas of TEA-21 that receives the most interest is our New Starts Program. TEA-21 authorized 191 new start projects over the life of TEA-21. The TEA-21 provisions also called on FTA to rank these projects as "highly recommended," "recommended" or "not recommended."

We recently published our annual new starts report which rated the 40 or so projects now in final design or preliminary engineering. We have used the existing new starts policy to rate these projects since TEA-21 only made minor changes in the statutory criteria. Quite frankly, we are very happy with the rating process so far.

While a number of projects were rated "not recommended," most of those were so rated because the local financial plans are not yet far along enough for those projects to be rated as "recommended" or "highly recommended." Local financial commitments are continuing to be refined throughout the course of the projects. We have always encouraged strong, local financial commitments, so the rating should not have been a surprise to any of the project sponsors.

We have also issued a notice of proposed rulemaking on new starts. This notice of proposed rulemaking, issued on April 7, begins the formal process of issuing the regulation required by TEA-21 to define the new starts rating process in more detail and put the other new start project changes in place.

Let me briefly cover two programs that were created by TEA-21—the Job Access and Reverse Commute Program and the Clean Fuels Program.

First, the Job Access and Reverse Commute Program provides grants for transportation services for people getting off welfare, making the transition from welfare to work, and to improve reverse commute services to allow center city residents better access to suburban jobs.

We have issued a solicitation for grants and received a very positive result with applications totaling over \$111 million in funds, for a program in which we have \$75 million available in fiscal year 1999. We believe this response demonstrates the need for the program, so we are now in the process of completing our review of the applications. We too, like my colleague, Administrator Wykle, will be making announcements very soon on those who will receive the grants for the Access to Jobs Program.

TEA-21 also created a new Clean Fuels Formula Program. Since the DOT Appropriation Act fully earmarked these funds in fiscal year 1999, we were not able to implement this program as prescribed in TEA-21. The President's budget for 2000 contemplates the implementation of the program as it was enacted in TEA-21.

We are also particularly excited about the changes made by TEA-21 to the Tax Code provision related to employer-provided transportation benefits. We are taking a very aggressive role in encouraging the implementation of these changes which are commonly called commuter choice. We are extremely grateful for the

leadership of this committee in that particular program. I would particularly like to call out the leadership of Senator Chafee on our commuter choice program as well.

As you know, TEA-21 allowed transit benefits up to \$65 per month to be provided in lieu of compensation, including the incentive for employers to provide transit passes to their employees. It also will raise the level playing field for tax-free transit benefits to \$100 per month in the year 2002.

We have dedicated a program of outreach and technical assistance to this particular element of TEA-21 and we plan to increase our efforts in the latter part of this year to continue to enhance our access and information on the commuter choice program.

To conclude, Mr. Chairman and members of the committee, while FTA's core programs were not changed substantially by TEA-21, many of the other changes are extremely significant. We are working hard to implement them as quickly and as effectively as possible. Implementation to date has gone extremely well, and we look forward to working with you to ensure that the remaining issues such as the planning and environmental streamlining, mentioned by many of you this morning, can be moved effectively, to ensure that we have an effective program that responds to the needs of our customers, that leads us to have a very effective operation and government, but at the same time, protecting the environmental issues that are dear to all of us.

I look forward to answering the questions that you may have and look forward to continuing to work with you as we go forth and continue to implement this great historic legislation. I thank all of you for your involvement in its fruition. We look forward to working with you as we continue to implement it.

Senator VOINOVICH. Thank you, Administrator Linton.

I will now call on Administrator Martinez. You have been to Ohio many times and we've tried to be one of your best customers and a role model for you——

Dr. MARTINEZ. We appreciate that.

Senator VOINOVICH. [Continuing] ——from what we've done to reduce highway crashes in our State.

I am also grateful for the money that you provided for our grade crossing program that has come out of the Department. We have really gone forward with your cooperation in eliminating a lot of those unsafe rail crossings.

Dr. Martinez.

**STATEMENT OF RICARDO MARTINEZ, ADMINISTRATOR,  
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION**

Dr. MARTINEZ. Mr. Chairman and members of the subcommittee, I appreciate the opportunity to testify today, especially with my distinguished colleagues.

The NHTSA programs have made solid contributions in highway safety. They really are a great investment. Since 1992 alone, these programs have saved over 60,000 lives, but traffic safety remains a national challenge. In 1997, for example, almost 42,000 people died and more than 3 million people were injured in just the police-reported crashes.

Highway crashes still cost our nation over \$150 billion a year. The public shares this cost in increased premiums and through tax-funded programs such as Medicaid and Medicare. So highway safety is good economics as well as good medicine.

My goal today is to provide you with a status report of the grant programs from this historic legislation, to thank you for your support and to find out how our agency can better work with Congress on these important issues.

I am pleased to report that NHTSA has issued regulations to implement the programs you gave us in TEA-21 for fiscal year 1999. I have a graphic that presents the status of regulations so it can be referred to.

TEA-21 Status of Regulations

Regulation	Published	Milestone
S. 157-Seat Belt Use Incentive .....	10/29/98 .....	Grants awarded 10/29/98
S. 157-Seat Belt Use Innovative .....	1/7/99 .....	Applications received 4/7/99
Seat Belt Survey Guidance .....	9/1/98 .....	Surveys received 3/1/99
S. 163-08 Incentive .....	9/3/98 .....	Grants awarded 9/3/98
S. 154-Open Container .....	10/6/98 .....	Transfer begins 10/1/00
S. 164-Repeat Offenders .....	10/9/98 .....	Transfer begins 10/1/00
S. 410-Alcohol Incentive .....	12/29/98 .....	Applications due 8/1/99
S. 405a-Occupant Protection .....	10/1/98 .....	Applications due 8/1/99
S. 411-Data Incentive .....	10/8/98 .....	Grants awarded 3/3/99
S. 405b-Child Passenger Educ .....	Being Drafted .....	Begins FY 2000

We issued the rules for our regulations in record time so the States could consider that in time for their 1999 legislative sessions.

I want to say that our staff worked very hard over many long hours. They worked weekends, they stayed late to get the grant funds out as soon as possible. Their work breathed life into these programs in a way we believe has maximized the States' chances of qualifying for incentive grants and avoiding transfer penalties.

Two of these programs particularly confront the biggest challenges facing us in highway safety, increasing seatbelt use and reducing impaired driving. Today, seatbelt use is just under 70 percent, up from 11 percent in 1982, but it's moved a lot in the last few years. At this level, we're saving more than 10,000 lives each year.

Congress authorized \$500 million over 5 years for incentive grants to encourage States to increase seatbelt use. The States receive funds based on estimates of annual savings of Federal medical costs, which we think is really a good idea. Everyone should understand the connection between these crashes and what they pay.

In fiscal year 1999, the first of the program, we made grants to 38 States and Puerto Rico totaling approximately \$53 million. Since the funds can be used for any title 23 project, we work closely with the Federal Highway Administration to make the best use of these dollars. You made some comments about that yourself. The unused funds of \$20 million for this year are used in the Surface Transportation Program. In future years, they will go to an innovative grant program to help increase seatbelt use.

Programs to prevent impaired driving, one of the biggest highway safety problems, still about 16,000 deaths a year, have been



extremely effective. In 1997, alcohol-related traffic deaths dropped to historic lows of about 39 percent of all traffic fatalities, dramatically lower than it was just 10 years ago.

Thanks largely to the age 21 minimum drinking age law and the zero tolerance law, crashes involving intoxicated drivers in the 16- to 20-year-old age group have fallen more than 30 percent in the last 10 years.

To address the impaired driving problem, Congress authorized \$500 million over 6 years for incentive grants to encourage States to adopt .08 bac laws as the per se standard for driving while intoxicated. States may use these funds for any title 23 project. In fiscal year 1998, we made grants to 15 States totaling \$49 million, where .08 laws were in effect. Thus far this year, two additional jurisdictions for a total of 17 have qualified. We are pleased the Congress provided support for other measures to combat impaired driving such as repeat offender laws.

Mr. Chairman, NHTSA strongly shares your commitment to partnerships. During your term as Governor of Ohio, you took the lead in establishing 30 Safe Community programs. This program allows us to be partners with the States, for them to identify their problem using their data, and then to use our best practices, which we get from around the world to attack their problem. That is the way it should be, and we've found it to be very effective.

You will be pleased to know that the new funds provided by TEA-21 will be available to support this community-based, injury prevention initiative. Over 620 communities are now nationally involved, exceeding our goal of 600 by the year 2000. So we've revised our goal to 1,000 by the year 2000.

NHTSA continues its leadership role in the safety aspects of the intelligent transportation system research program. A key task is to promote the development of intelligent crash avoidance technologies to enhance vehicle safety. We are also involved in DOT's intelligent vehicle initiative to accelerate the development and availability of high technology automotive projects and products to help drivers avoid crashes. That is the biggest bang for the buck because you don't have to have the crash.

We are assessing the impact of these technologies, driver fatigue, and inattention on vehicle safety using sophisticated tools such as the National Advanced Driving Simulator.

We are confident that TEA-21's programs can strongly advance the goal of improving highway safety. I'm especially proud of the efforts of my staff at NHTSA to bring these programs to the States in a real partnership way.

I've met with our regional headquarters staff and I know they are enthusiastic about the new opportunities TEA-21 has given us to improve safety. We look forward to working with the subcommittee and making the opportunities provided by TEA-21 a reality.

Mr. Chairman, this concludes my remarks and I will be glad to answer any questions.

Senator VOINOVICH. I really appreciate the testimony of the panelists.

I'd like to start the questions and try to ascertain whether or not the Department has communicated with Carol Browner in regard to this court decision and what the position of the Administration

is going to be in regard to it? There are a lot of people around the country who are very worried about it. I know I talked with Secretary Slater when he was in to see me and I'd like to know the position of the Department in regard to it and what influence you're having with EPA or the Administration?

Mr. WYKLE. As you mentioned, a lot of different agencies within the Federal Government are involved. It's a DOJ decision in terms of whether or not they appeal but we at Federal Highway, the Department of Transportation, EPA and DOJ are looking at this issue right now.

A court decision of this magnitude certainly carries with it some advantages if you appeal and are successful; it has some risks if you appeal and are not successful in that appeal. So we are continuing to meet. We are not required to submit a decision until tomorrow. Quite frankly, we haven't reached a final decision yet because there are a lot of varying views on this.

We certainly have your letter, many of the States have come in with individual letters, we have heard from Governors, we've heard from AASHTO, we've heard from environmental groups. So there is a divergence of opinion there. We're trying to sort through all that to determine the potential risk because as the decision is currently written, there is still some flexibility in there for us.

If we appeal and lose, it could be much more proscriptive as to specifically what we will be required to do. So we're trying to weigh all of that, then get a joint position between EPA, the Department of Transportation and DOJ for the decision that will be submitted tomorrow. However, at this time, we have not arrived at a definite decision.

Senator VOINOVICH. Have you ascertained the projects in the country that would be in jeopardy as a result of that decision?

Mr. WYKLE. We have done some preliminary work, yes. Right now there are about 10 projects at approximately \$80,000 that are at risk. Potentially, it could go as high as 85 projects, \$1.2 billion in terms of value.

We expect most of those States where there is impact to be back in compliance or conformity by the end of the summer. The one area right now that stands out as a very difficult challenge is Atlanta. They potentially have several projects down there approaching \$461 million that could be in jeopardy in terms of being delayed until they reach conformity.

This is a moving train because communities will come into conformity and others will go out, so the numbers will vary as we move forward looking at this.

The court decision as currently rendered just strikes down the grandfathering provision. Right now, projects are grandfathered once they go through the NEPA approval process. So they are not grandfathered any longer having gone through that process but we do have some flexibility as to where project approval is being considered as a part of the conformity definition. That is what we're debating at the present time.

Senator VOINOVICH. It does have some long range impact because with the new ambient air standard, for particulate and ozone, and States not being in compliance with the new standards, that would impact upon the projects in the future.

I want you to know that I think all of us are very, very interested and this could have major impacts on what we are doing in this area for the next several years.

Mr. WYKLE. We understand that.

Senator Chafee.

Senator CHAFEE. First, Mr. Linton, I want to commend you for your efforts in pressing ahead with the commuter choice proposal that is there. I hope you're having some success. I know you put on a seminar in Rhode Island that was a very, very good one and we had lots of companies join in that effort.

Of course it's a real winner in every way—get increased transit use, then we don't have to expand our highway system.

You were kind enough to mention my role in this. I also want to commend the role that Senator Moynihan had in all of this. He was deeply interested in it.

You think things are coming along pretty good? You held these seminars or briefing sessions around the country?

Mr. LINTON. Actually, we haven't held as many as we would like and we want to continue to work with you and members of your staff who were so helpful in working with us in regard to the Rhode Island event. We want to take that event and replicate it around the country.

What we are looking to do, and my staff is working on it right now, we want to put together a toolbox that could be replicated around the country so that corporations, personnel offices, labor unions, all of those will have a hands-on document that they can use that shows them how to implement the program.

We want to have these toolboxes available that can be distributed across the nation. Then we want to have the sessions like those held in Rhode Island.

Senator CHAFEE. It is a little complicated and the sessions do go well to explain it.

Dr. Martinez, how does this work in the seatbelt usage. I'm not just sure of the mechanics of it. Who does the counting? Let's take the State of Wyoming. Would it be the highway patrol that would do the counting, or do you determine what is the seatbelt use?

Dr. MARTINEZ. That's a good question. They had done it one way before, now they are changing. The bottom line is there is a Highway Safety Traffic Office that usually reports to the Governor. They do surveys once or twice a year.

In the past, each State has done it somewhat differently. As the States have begun to really focus on the issue, there was a call for uniformity because some, for example, don't look in the back seat, some look in the front seat, some don't count pickup trucks, and some do.

Senator CHAFEE. I think there would be tremendous temptation to inflate your estimate or guesstimate of what the usage is. They wouldn't do that in Wyoming, but I mean in some States they might and say, we've got 70 percent usage. Who checks?

Dr. MARTINEZ. What we have done is come up with a—

Senator CHAFEE. And with it goes a bonus, doesn't it, an incentive.

Dr. MARTINEZ. Correct.

Senator CHAFEE. So there is a reason to be tempted to inflate the guesses?

Dr. MARTINEZ. God forbid someone should try to inflate the numbers. We have proposed a uniform criteria that went out in September, a comment period on that regulation just closed. The States are really moving toward a uniform way to do surveys. Then, we check and certify those surveys. So there is fairness across the board.

So far this year, I think, 49 of the 50 States have submitted surveys that certify.

Senator CHAFEE. As I understand the bonus on the seatbelt use, if State A has greater than the national average, then they get a bonus of some type?

Dr. MARTINEZ. There are several ways to get a bonus. One is if you're above the national average for 2 years, so you get moneys back based on the calculated savings from Federal health care funds. The second way is to increase above your baseline. The first baseline year was several years back, 1996, and the bonus is based on how much you've gone above that.

So as you improve, you get moneys for that, and as you go beyond the national average, you get moneys for that.

Senator CHAFEE. If you do something on the .08, is there an incentive likewise for that?

Dr. MARTINEZ. Correct. Those States that have conforming laws for .08 get moneys that year. I think last year it was 15 States that qualified. Two more States have passed legislation, 17 States have qualified so far this year.

Senator CHAFEE. For the bonus?

Dr. MARTINEZ. For the bonuses, yes, sir. I believe Washington was one this year.

Senator CHAFEE. Mr. Wykle, you talked about the TIFIA. I was deeply interested in that. You have that up and running, that proposal, that plan?

Mr. WYKLE. Yes, sir. The notice of proposed rulemaking went out February 8, 1999. We are working on the final now, so we should have that toward the end of May or early June.

Senator CHAFEE. That is just for really big projects?

Mr. WYKLE. It is. It provides credit assistance, guaranteed loans, for those types of projects.

Senator CHAFEE. I think that holds great promise but we'll have to see.

Mr. WYKLE. There is a lot of interest out there among the various States because they see this as an additional way to fund infrastructure projects.

Senator CHAFEE. Thank you, Mr. Chairman.

Senator VOINOVICH. Senator Baucus.

Senator BAUCUS. The first question is to both you Mr. Wykle and Dr. Martinez. With respect to intelligent transportation systems in rural areas, what is being done, examples could be paving sensors to indicate icing conditions, call boxes and so forth. I think we could probably do a bit more on intelligent highway research and application perhaps than we are doing. I'm just curious with respect to the rural part of the country how we are doing?

Dr. MARTINEZ. I will answer quickly because I can tell you about a project and turn it over to Mr. Wykle. One of our big concerns for car crashes is that the time to response after a crash is twice as long in the rural environment than it is the urban environment. Actually, one-third of the deaths in car crashes are single vehicle crashes in the rural environment. The car crashes and no one knows about it.

One of the areas on which we are focusing for ITS is automatic collision notification. We have now over 20 crashes that have occurred in a test in the Buffalo, NY area. We have over 1,000 vehicles with a system that has global positioning and has accelerators in three different directions.

When a crash occurs, it instantaneously sends a signal to the 911 system with the location and severity of the crash, and the probability of injury. It has really been phenomenal so far because the dispatch center gets a trail and location for that vehicle. It knows right away, so you're basically taking the "search" out of "search and rescue." We think that will make a great impact.

Right now, almost a third of people who die in these crashes die in the first 10 minutes. We think time is the issue. Things don't get better, they just get worse; second, location is the lifeline. This allows us to reach out.

Senator BAUCUS. How expensive will it be?

Dr. MARTINEZ. Right now, it's about \$1,000 for this system. We are decreasing the cost by making the box essentially become smaller and smaller and, thus cheaper and cheaper. The price is coming down for GPS, wireless communications is becoming ubiquitous. One of the nice things about using a vehicle base is that instead of having to have so many towers, you can have more power in the vehicle and make it to one tower.

Senator BAUCUS. Mr. Wykle, do you have any other comments?

Mr. WYKLE. A couple of things. Certainly travel information systems to give the traveler access to information as they travel through the rural area. You mentioned weather conditions, but also traffic conditions, knowing about incidents and crashes. Another example of the technology on the intelligent vehicle initiative side is in avoiding a high number of crashes caused by being run off the road. You can avoid those with lane following devices, or lane merging devices that let you know if you're getting out of your lane, adaptive cruise control, all of those things pertain to rural areas.

Senator BAUCUS. I understand that Dr. Martinez touched on those things as well, the more rural nature of the problem. It is true. In my State, Montana, most of the fatalities are not on interstate highways, they are off on the rural roads, sometimes dirt roads, following a section line and get to a corner, just going too fast and things like that. A lot of it is rural and when there is an accident, it takes a long time for somebody to either know about it or to come and help the victim.

On the options paper, where are we? We're having a hearing later on in another month, roughly.

Mr. WYKLE. Right now, we have received and are receiving input based on the options paper. Our cutoff date for that was March 31, although we have left it open to continue to receive comments.

We're getting ready to publish a notice of proposed rulemaking within the next couple of months. That will provide additional opportunities for comments during that period of time that the notice of proposed rulemaking is out there. Then we will have to see how many comments we get, evaluate all those and work on the final rule. It's very complex and a wide variety of opinions and different views as to which way we should go.

Senator BAUCUS. I appreciate that but I will encourage more simplicity.

Mr. WYKLE. I understand. That's probably the No. 1 or No. 2 issue that people talk to me about as I go out and visit the various States, the environmental approval process, how bureaucratic and how long it takes to get that done.

Senator BAUCUS. I hear that complaint constantly from people at home.

Third, briefly, railroad crossings, it's a problem as we all know. Rural States and somewhat rural areas particularly, there are a lot of crossings. I know there has been a lot in the press about this and so forth. What are we doing?

Mr. WYKLE. First of all, we're emphasizing to the States the money that is available. As mentioned in my statement, \$154.8 million is set aside every year from the STP program to go into that. There's another \$315 million available for either rail grade crossings or hazard elimination. You can also use national highway system funds and other categories of funds.

Senator BAUCUS. Even with all the funds, do you feel confident that we'll soon be making very significant progress in setting up systems that will very significantly reduce the incidence of railroad crossing accidents?

Mr. WYKLE. Great progress has already been made. If you look at the number of fatalities, it's been reduced by 30 percent over the last several years. Certainly we want to do more and there is more that can be done.

One is using ITS technology, using video enforcement at rail grade crossings. We have found when that technology is used, it reduces the number of violations by 90 percent in terms of people not running through the signals or around the gates. There are also median barriers that you can put in to prevent going around. There are four quadrant gates that can be used. So the States need to decide what technology they want to use and how many dollars they want to provide.

As mentioned, Ohio is an example. We reference them in terms of the progress and improvements they have made by focusing on the elimination of rail grade crossings and putting in safety features at grade crossings.

Senator BAUCUS. I don't want to harp too much on the rural nature of this but there are so many crossings in Western States. They are everywhere and we don't have the money really to deal with it.

Mr. WYKLE. A big piece of it is education.

Senator BAUCUS. I've seen a lot of people, who if they see that train coming, they're going to beat that train at the crossing. I see a lot of that.

Senator VOINOVICH. I would just like to comment that a lot of what you can do in this area has to do with the coordination of your State agencies. In our State, we had our public utilities commission doing it, the Department of Transportation and we got them together and started working with the Federal Government and also the railroads were involved. It was amazing how we started to expedite. So it's getting everyone to the table, laying a plan, setting your priorities and getting it done.

I think there is a lot more that can be done in a lot of States if the States would just get the people responsible in the same room and figure out how they can work together to get more of these.

Senator BAUCUS. There is a lot to that, I very much agree. It's just that west of the 100th meridian, it doesn't rain. That means there is so much space and it's a kind of different animal in the West, the rural, rural west compared with other areas but I appreciate what you're saying.

Senator VOINOVICH. Senator Thomas.

Senator THOMAS. It's interesting and I understand your efforts. The thing I hear about the most is let us make our own decisions generally in the States. I think it is applicable in that there is so much difference in the delivery of whatever it is, whether electricity or health care or highway dollars. The needs are different in Wyoming than they are in Rhode Island. I hope there is recognition of that.

Mr. Wykle, I don't understand the diversion of the \$1.5 billion. Why is that being suggested to be spent differently than the TEA-21 prescription?

Mr. WYKLE. First of all, I'd like to indicate it is certainly our view that our proposal does not reopen TEA-21. We understand the risks in terms of reopening TEA-21. We believe we are complying with the original guaranteed amount that was proposed and guaranteed in TEA-21 in terms of the distribution of those funds.

We are proposing the revenue-aligned budget authority amount be used for specific areas that need additional emphasis, research and development, the environment, clean air, those types of things, but we recognize this is a proposal and we cannot implement this without legislation. Congress must agree with this. We understand the concerns of this committee.

We have a proposal on the table to get the debate started and we certainly are willing to work with you and other Members of Congress to try to find the right solutions to these issues and gain the right balance for a national transportation program.

Senator THOMAS. We had a little discussion last year, you'll recall.

Mr. WYKLE. We did.

Senator THOMAS. Rather extensive, as a matter of fact, and finally came to a decision. It was my understanding that the Congress sort of does the law part and you all implement it. Is that your understanding too?

Mr. WYKLE. Yes, sir. As my comments indicated, we have a proposal on the table, we understand we cannot implement that without congressional legislation, so we are certainly looking forward to

working with you and other members of the committee to try to find the right balance here.

Senator THOMAS. The livable communities thing, tell me how that fits into the highway system?

Mr. WYKLE. TEA-21, as an example, authorized the Transportation and Community and System Preservation pilot program, specifically a new program that provided dollars.

Senator THOMAS. That's the Gore program that he just announced?

Mr. WYKLE. In TEA-21 it's not identified as the Gore program.

Senator THOMAS. I'm sure it isn't, but I'm trying to cut through.

Mr. WYKLE. Certainly the Vice President is championing that and talking about livable communities and the benefits of those in terms of letting the communities decide.

Senator THOMAS. That's the key, why don't we let the communities decide?

Mr. WYKLE. That is the Livable Communities Proposal, letting the communities decide what they need to do to make their communities more livable, more attractive to the citizens there. In TEA-21, the TCSP program provides some funds that the communities can decide.

Senator THOMAS. With no restrictions?

Mr. WYKLE. There are restrictions in terms of what is in the legislation in terms of the categories and what qualifies but within that categorization, there are no restrictions. If they come in and ask, we provide the dollars and they spend it on those programs.

Senator THOMAS. If there's anything we ought to rely on, we ought to rely on the people who live there to decide is I think livable communities, so I hope we do not decide in Washington, we're going to prescribe what those ought to be.

How do you come up with the lives saved? You're very specific about it. How do you do that?

Dr. MARTINEZ. Basically, you look at the baseline, and then look at what has changed. You can calculate like you do for any sort of medical procedure. Check those with and those without and then look at the differences on those cases and you can calculate the lives saved.

The calculation, not only by NHTSA but by others for seatbelt use is about a 55 percent potential to prevent a death. Unfortunately, one of the problems we have when you look at those 42,000 that died, the majority of those are unbelted.

Senator THOMAS. So they are estimates based on what's happened in the past.

Thank you for being here. It is a little early to be evaluating certainly the impact of this whole thing. I guess I'm being repetitive, but please remember and I'm sure you know how different it is to implement these programs in different places. There's 460,000 people in Wyoming. It's the eighth largest State. So the way we deal and need to deal with our needs is quite different than those in Delaware. We need that flexibility.

Thank you, sir.

Senator VOINOVICH. I'm sure we all have some more questions and I'm sure you wouldn't object if we submit some of these to you.



You will be getting some written questions from me on your testimony.

One of the things I know I'm concerned about and have been for a long time is, have you set a baseline in terms of how long it takes to move a project through the system? Somewhere down the road, I'd like to know if you have, how you've measured your effort in terms of reducing that time.

Mr. WYKLE. Certainly, we have a sequence of things that need to be done. I'll summarize that for you real quickly. You have the planning piece, then the environmental piece, then the record of decision that approves that project. Then you go into the right-of-way acquisition, the design and actual construction. Of course there are substeps within there. So we have a pretty good handle on all of the requirements.

There is a wide difference depending on the complexity of the problem and the potential environmental impacts and things that really determine how long it takes. We certainly have some quantifications for the various steps. We'd be more than happy to brief or discuss those with you.

Senator VOINOVICH. I'd like to have them and some of the new things that have been added, the hurdles and so forth, because you hear complaints and I've had them for years, of local government and State officials, how long it takes to get something done today.

Mr. WYKLE. It's a long time, many, many years, as you know.

Senator VOINOVICH. I think we should start looking at what are some of the problems that make it very difficult to move forward with these projects.

There are a lot of other things, your small business setaside program. We are a leader in the country in that program and with the new court cases, I'd be interested to find out from you how the Department is responding to that because a lot of our complaints came from our Department of Transportation in Ohio. I'd be interested in how you intend to handle that one.

The seatbelts and .08, I was the sponsor of the bill that reduced the statutory definition of under the influence of alcohol in Ohio from 15 to 10 but I'm opposed to you mandating .08. Seatbelts, I've been trying to make it a primary offense for the last couple of years and haven't been able to get it to the legislature.

I think one of the things maybe you could concentrate on is a little better public relations so the public gets an idea that if you do use your seatbelt, how many lives are saved. Every week we put out a newsworld release on how many lives would have been saved. I think if the public had a better understanding, two things would happen. No. 1, more people would use their seatbelts and No. 2, more legislators might be prone to pass and make it a primary and the same way with the information on reducing the definition from .10 to .08.

Thank you very much.

Senator VOINOVICH. We'd like to welcome our colleagues from State and local government. One of the things I feel wonderful about is the Leader, Senator Lott, has asked me as a new Senator to be the liaison between the Senate and the State and Local Government Coalition. I really enjoyed working with your respective organizations. I have a feeling the more we coordinate our efforts

and work together, the more successful we are all going to be. I certainly welcome your presence here this morning.

We will start off the panel with Representative Joan Bray from St. Louis, Missouri who is representing the National Conference of State Legislators.

**STATEMENT OF HON. JOAN BRAY, REPRESENTATIVE, MISSOURI STATE LEGISLATURE, ON BEHALF OF THE NATIONAL CONFERENCE OF STATE LEGISLATORS**

Ms. BRAY. Mr. Chairman and members of the subcommittee, my name is Joan Bray and I am a State representative from Missouri. In the House of Representatives there, I serve as the chair of the Ways and Means Committee. Today, I appear before you representing the National Conference of State Legislators where I am serving as the chair of NCSL's Energy and Transportation Committee.

Mr. Chairman, I particularly thank you for coming to our meeting in February where the session with you was one of the best acclaimed of the day. We appreciate your involvement already with us.

Senator VOINOVICH. Thank you.

Ms. BRAY. NCSL represents the nation's 50 State legislatures, its territories and the District of Columbia. We consistently present to the U.S. Congress strongly-held positions on the preservation of State authority, protection against unfunded Federal mandates, promotion of fiscal integrity and development and maintenance of workable State-Federal partnerships.

During my testimony I will focus on the successes of the Transportation Equity Act for the 21st Century and the concerns legislators have as we look forward to the coming fiscal years.

As diverse as State legislators may be, NCSL's transportation policies represent unanimous consensus on issues that are the topic of today's hearing. NCSL worked very hard with Congress last year for the passage of TEA-21. In passing the measure, Congress proved that it believes in the economic importance of the nation's transportation system and that investment in the system is a good investment.

Overall, the States are seeing more funding which translates into more investment in transportation. Thank you for that funding. It does make a difference, but it will continue to make a difference only if you don't retreat. Please continue to use transportation trust funds only for transportation projects, protect the firewalls.

The spirit of TEA-21 is to give States more flexibility and discretion and to simplify the transportation planning process while maintaining the balance between the States and Federal Government. The States unanimously support that vision and we expect the Department of Transportation to implement that vision.

For example, the environmental streamlining process was intended to reduce burdens on the States without compromising crucial environmental protection. States such as Kansas, Michigan, Idaho, Montana and Maryland report they are beginning to implement the environmental streamlining provisions in TEA-21 and we are optimistic the process will become easier and simpler. However, States such as these are not yet seeing much difference in the process.

We know implementation is not complete and we are confident that the USDOT will resolve our doubts and take actions in favor of less regulation but if this does not happen, we will come back and ask Congress to take corrective measures to ensure the results you originally intended.

In terms of flexibility, TEA-21 takes a giant step in the right direction. More flexibility with funding from the core highway programs enables the State to use money in the most effective, most efficient way for its interests. State legislators from all over the country have said they are already seeing more flexibility.

However, there are areas that we would like to see even more such as enabling more use of surface transportation program funds and national highway system funds for public transit and extending the use of such funds to passenger rail, including high speed rail. In the past few years, States such as Missouri have seen a greater portion of the cost of passenger rail service shifted to them as AMTRAK has reorganized to become operationally self-sufficient. Because no reliable funding stream for passenger rail has been provided, States should be allowed to flex Federal funds for its use or whatever mode meets their citizens' mobility needs.

Additionally, several States, including New Jersey, have concerns with the funding system for demonstration projects. While these States are grateful for the authorization of such projects, they believe they are required to come up with too much funding early on and then seek reimbursement over 6 years. This makes it unlikely that States will choose to implement this kind of project over others that provide more funding up front.

The States are pleased with the actions of the USDOT regarding the distribution of apportioned funds and trusts the discretionary funds will be distributed in a similar, expedient and efficient manner as they are appearing to be very well received and even oversubscribed.

NCSL staff and members have had discussions with the USDOT staff responsible for several discretionary programs under TEA-21, including the Border Crossing and High Priority Corridor Program. Our discussions with those staff members have made us confident that programs such as those will be administered quickly and efficiently. It is our hope that other discretionary programs, including traffic safety grant programs and access to jobs, will operate as efficiently.

States are encouraged by the innovative financing methods in TEA-21. Many States are using their State infrastructure banks for leveraging funds. Missouri's SIB allows it to continue using Federal funds for assisting preconstruction costs before issuing bonds and when assisting projects whose costs are too small to justify a bond issue.

Innovative financing methods like the SIBs and those authorized by the Transportation Infrastructure Finance and Innovation Act can assist States in significant ways. More importantly, however, NCSL is concerned about the proscriptive, one-size-fits-all approach Congress and the Administration have taken on issues in the area of traffic safety, more specifically, the open container rule and the repeat offender rule.

It is important to note that NCSL and all the States are very much in favor of measures to counter alcohol-impaired driving. However, we believe it should continue to be within a State's authority to decide this issue without the risk of federally mandated penalties for the decision. States have been very aggressive in adopting drunken driving counter measures. We oppose the provisions in TEA-21 and the subsequently issued rules that redirect a State's highway funding to an alternate category if the State fails to pass an open container law or a repeat offender law.

Several States, including Ohio, Minnesota, Maryland and Montana, have expressed doubts over the likelihood of legislatures passing such stringent laws and subsequently the States' ability to enforce such laws in light of the restrictive regulations issued by the National Highway Traffic Safety Administration.

Additionally, sanctioning the States for failure to pass the law is not the optimum way for the Federal Government to conduct matters with the States and a poor way to foster intergovernmental relations.

Our constituencies in our States in this country are reliant on efficient, accessible and safe travel for themselves and their goods. Congress has taken a step forward with the passage of TEA-21. This law has many encouraging programs and is finally starting to come close to the funding levels and flexibility necessary to rebuild and maintain our deteriorated infrastructure.

The nation's State legislatures ask you not to retreat. Keep your commitment to increase funding, cut back on restrictions that prevent the States from administering safe and efficient travel, give us the flexibility we need to effectively all modes and work with us to achieve the goals of a safe and efficient transportation system.

Thank you for the opportunity to be here today and I'd be glad to take any questions at the appropriate time.

Senator VOINOVICH. Our next panelist is The Honorable Jean Jacobson, county executive, Racine County, WI. Racine is a wonderful city and I can testify that there is great fishing out of Racine.

You have done some very innovative things in your county in Wisconsin. We have used you as a role model in Ohio. We welcome you here today.

**STATEMENT OF JEAN JACOBSON, COUNTY EXECUTIVE,  
RACINE COUNTY, WI, ON BEHALF OF THE NATIONAL ASSO-  
CIATION OF COUNTIES**

Ms. JACOBSON. Thank you very much, Mr. Chairman, and it's a pleasure to be here.

Yes, Racine is one of the greatest fishing capitals in the world.

I am Jean Jacobson. I'm the county executive in Racine County and I'm here this morning representing the National Association of Counties, which I will refer to as NACO, where I presently serve as the chair of the Transportation and Telecommunications Committee. On behalf of NACO, I want to thank you for the opportunity to be invited here today to testify.

NACO is very pleased with the outcome of the TEA-21 legislation. We had four major objectives, all of which were achieved. We wanted more funding for the highway program, we wanted to be

guaranteed funding from the Highway Trust Fund, the program structure of ISTEA was to be retained and more input for local government officials in the planning and project allocation process, something you are hearing over and over today.

Concerning the last point, TEA-21 includes a provision that requires States to implement a process for including rural local government officials in the development of the Statewide transportation improvement program. NACO fought very hard for this provision and while not putting rural counties at parity with urban officials, it does recognize that States must now include rural officials in the important process of developing the STIP which in turn determines those projects that may ultimately be funded.

Expectations on the part of county officials were increased with the size of the highway program going to \$175 billion. At NACO we have urged our members to work closely with their Governors, State departments of transportation, MPOs and other units of local governments to make sure they get a fair share of the TEA-21 dollars. At a minimum, counties should expect an adjustment of Federal highway and bridge dollars that reflect the percentage increase their State is receiving under TEA-21. Better, TEA-21 funding should reflect the level of responsibility for roads and bridges that counties have in a State and the overall condition of the county system in that State.

For us, the key implementation issues are whether the additional funding is flowing to county government and whether county officials are being included in the planning and project allocation process.

What NACO did to prepare for today's testimony was to send out a short survey to members of our Transportation and Telecommunications Steering Committee regarding the implementation of TEA-21 and actually talk with associations of counties from States with members on this subcommittee.

We received surveys from 29 States and feedback from 7 of the State Association of Counties. In Racine County where I've been an elected official for over 18 years, transportation is really a big ticket item in our budget. Under TEA-21, Racine County has done well in the surface transportation program and the enhancement program set aside. This is in part due to the high quality of the MPO to which we belong. That's the Southeastern Wisconsin Regional Planning Commission. We've also received additional funds because a county trunk highway is on the National Highway System.

In Ohio, Mr. Chairman, counties continue to do well under TEA-21 and I trust that has something to do with the immediate past Governor being a former county official who had a county engineer as his director of the State department of transportation. I am told that under TEA-21 counties' share of the STP program and bridge program has increased by 26 percent. It is obvious in Ohio the elected county officials and county engineers, also elected, have a good relationship with that State.

In Montana, TEA-21 has brought good news for county government. Surface transportation program funding is up 60 percent for counties and bridge program funding is expected to increase. I'm told the Montana Department of Transportation is involving and consulting with county officials to a much greater extent. One rea-

son for this is the aforementioned provision in TEA-21 that requires State DOTs to provide for greater involvement of elected rural, local officials in the statewide transportation program. As I understand it, in Montana a new rural planning process will be implemented shortly.

I'd like to briefly touch on what we've heard from other States represented on this subcommittee. In Virginia, only two counties—Henrico and Arlington—have road responsibility and our sources tell us that it's really too early to tell the impact TEA-21 has on these counties.

Missouri counties expect ultimately to get more funds but are currently engaged in a battle with the State DOT over their bridge funding. Missouri has a substantial number of deficit bridges and counties have depended on the Federal Bridge Program to assist with that high expense in reducing this backlog.

In Oklahoma, the expectation is that urban counties will benefit from the increased funding in TEA-21 and rural counties will not. There is no rural planning process in Oklahoma.

In Wyoming, the State Association of Counties reports that it is really too early to say regarding the effect of TEA-21, although the expectation is for no additional funding.

No rural planning process is in place in New York State. An additional \$200 million has been provided for addressing deficit local bridges, though no extra money for secondary roads is provided through the STIP program.

Nevada counties are benefiting from TEA-21 with more funding for both urban and rural counties. Florida has a similar situation, though the urban counties expect to do somewhat better than their rural counterparts. Less funding for rural counties is explained by the fact that rural counties have no counterpart to the MPOs.

In New Hampshire, there are no county roads and in Connecticut and Rhode Island, no county governments.

The responses from counties varied a great deal but generally fall into five categories: (1) the respondents from nine States replied "yes" to the question of whether they felt counties were getting their fair share; (2) respondents from two additional States said it was too early in the process; (3) respondents from counties in four States said they experienced increases in both the STP and the bridge program, though the increase was generally viewed as insufficient given the overall increase in the TEA-21 funding; (4) respondents from counties in four States indicated they got more money in either the STP or bridge program but not both; and (5) finally there were respondents from four States where the counties felt they were not going to be receiving any increased funding.

The comments from these counties can generally be summarized as these States not believing that it has to share any TEA-21 money with the counties and demonstrating no interest in consulting with them regarding the programming of the TEA-21 funds.

The most important conclusion from our survey is that where there is a planning process in place, that includes local officials whether they are urban or rural, the counties do receive more benefits from TEA-21 and they are much more satisfied with the program.

Where States have not instituted a consultation or planning process for rural counties, the counties are generally not receiving much in the way of increase from TEA-21 funding, if any, and they certainly are not satisfied with the TEA-21 implementation.

NACO is working with FHWA on a regulation to be clear in its intent that States need to have a process in place to engage rural, local-elected officials on the development of the STIP where such cooperation does not currently exist.

We really extend our thanks to you, Senator, for holding this important hearing at this time. We look forward to working with you and your subcommittee in the future.

I would be very happy to answer any questions you have this morning.

Senator VOINOVICH. Thank you.

Now I'd like to call on Mayor Kenneth Barr, Mayor of Ft. Worth, TX, who is representing the U.S. Conference of Mayors.

**STATEMENT OF KENNETH L. BARR, MAYOR, FT. WORTH, TX,  
ON BEHALF OF THE U.S. CONFERENCE OF MAYORS**

Mayor BARR. I am very pleased to be here this morning. I am Kenneth Barr, the mayor of Ft. Worth, TX representing the U.S. Conference of Mayors.

We commend this committee and the work of the committee for providing us with the opportunity under TEA-21 for success in meeting the challenges before us in surface transportation. TEA-21 certainly provides the tools and the laboratory but it doesn't guarantee success. This is up to local-elected officials working with Governors and State transportation officials to use the tools you have provided.

Our written statement is quite lengthy because we tried to provide some context for our views on TEA-21 implementation.

Senator VOINOVICH. I understand it was about 6 inches thick.

[Laughter.]

Mayor BARR. Let me just say most of our statement relates to technical issues and fine-tuning corrections. There is one point I want to make very, very clear. Our statement should not convey the impression that mayors are unhappy with TEA-21. The contrary is true. We are very pleased about TEA-21 and the working relationships under ISTEA and those relationships will continue into the future.

In preparing for this presentation today, the Conference of Mayors conducted a survey of mayors around the country to get their initial impression of TEA-21. The results are in the report but I think the message is that the partnership is alive and well, that communication is improving, that the information flow is better, not where it ought to be but it is better.

Interestingly, one thing that came out of that survey was some statements about the No. 1 surface transportation priority in different cities. Thirty-five percent of the mayors said that system preservation was their No. 1 priority; 20 percent named congestion relief; and interestingly, 15 percent named new rail projects; the other 30 percent named other types of transportation alternatives. I thought the new rail projects was significant.

Let me limit my remarks to three areas. I'd like to talk a moment about modernizing the transportation information system, the information that is available to all of us who work in transportation-related issues. I'd like to talk a moment about the metropolitan economies and the large metropolitan city-county areas that are driving our economy today. If time permits, I'd like to make a couple of remarks about AMTRAK funding.

We think there is a strong need to improve the information systems available about transportation. We need some geographic information about where the projects are and what is going on. We are in the age of color television and glitzy computer presentations and everyone knows the difference in using tables and charts. Charts just tell the story at a glance.

The same seems to be true in the kind of transportation information that needs to be available. I will give you a copy of a layout of the city of Ft. Worth and there are lots of green dots all over this. They represent transportation improvements in our city. I can look at the map and I can see they are distributed but I can't tell anything about the individual projects very much other than a limited color code.

Here is a map from HUD's Community 2020 Program. This information is available from the Housing and Urban Development to community planners all over the country. You can buy a CD at a reasonable price and you can literally click on any one of these projects and have relevant information available about that project. This is a great tool for those of us who work in community planning and for even private investors who are looking at what is needed in the community.

I would hope something like this could be made available. It would help us tell where the dollars are going, what dollars are available, and it would assist a lot.

One of the challenges is there is a lot of flexibility under TEA-21 but flexibility without accountability for where the money is going subverts the whole system and the whole effort in the first place. I strongly urge that you look into ways the Department of Transportation can provide us more useful information.

Metropolitan economies, 47 of the top 100 economies in the world are U.S. city-county metropolitan areas. The nation is being driven by these large metropolitan areas. That is where the new job creation is, that is where the increase in productivity is coming. It is imperative that transportation funding go to these areas because if we don't oil the machinery, and I liken a metropolitan area to a machine, if we don't continue to oil the machine to make it continue to run, then in the long run we're going to see a slowing of the U.S. economy.

Let me close by saying that we think AMTRAK funding, Senator Hutchison who is a member of this committee, has worked very hard and we commend her efforts. AMTRAK needs to be eligible for TEA-21 funding. That's one of the technical corrections we think that is needed. We think we have to continue to pursue alternatives to single occupancy vehicles and public transit and trains are a major part of that.

Thank you very much.



Senator VOINOVICH. Our next panelist is Mayor Robert T. Bartlett, mayor of Monrovia, CA. We welcome you.

**STATEMENT OF ROBERT T. BARTLETT, MAYOR, MONROVIA,  
CA, ON BEHALF OF THE NATIONAL LEAGUE OF CITIES**

Mayor BARTLETT. Mr. Chairman, members of the subcommittee, the National League of Cities is pleased to have this opportunity to share our views on the implementation of the Transportation Efficiency Act of the 21st Century.

My name is Robert Bartlett and I am the mayor of Monrovia, CA and chairman of the NLC Steering Committee on Transportation and Infrastructure Systems. In addition to my job as mayor, I serve as the immediate past president of the Southern California Association of Governments which is the regional council, making the decisions on what to do with TEA-21 money in the California area.

The National League of Cities is especially grateful to the Senate for passing TEA-21 legislation. This legislation will assist our cities and towns in preparing our infrastructure systems for the 21st century. TEA-21 represents a continued partnership of Federal, State and local government seeking the goal of modernization of infrastructure which is critical to sustaining our cities and towns and commerce in the nation.

TEA-21 has continued the direct decisionmaking role that local governments have in determining TEA-21 projects and allowed the programs to be flexible for local needs. Additionally, TEA-21 has created a national transportation policy framework that includes Federal money for intermodal transportation, including mass transit.

In my testimony I will present some concerns that have already surfaced but at this point in TEA-21's implementation, it is still very early to fully report how implementation is going and what long-term concerns local governments have. We welcome the opportunity to develop a partnership with you, Mr. Chairman, and the members of the subcommittee to address these issues as they surface over the course of the year. I would respectfully ask that the State and local government associations be able to report any other concerns in 6 months as more implementation will have occurred at that time.

The leaders of our cities and towns have just begun to see the direct impacts of TEA-21's implementation. In my own region of southern California, innovative projects are being considered for funding as a result of TEA-21's passage. The Southern California Association of Governments, SCAG, is seeking \$2 million for a magnet levitation (MagLev) transportation technology deployment. Funding would assist in conducting an extensive review of the feasibility of mag lev technology in an urban, interregional setting.

SCAG will be focusing on a corridor between Los Angeles International Airport and March Air Force Base with the intermediate stops at Union Station and Ontario International Airport. The proposal is a unique opportunity to link airport travel and goods movement demand with daily urban transportation needs, thus addressing multiple issues of serious concern within the greater Los Angeles metropolitan area.

While TEA-21 is working within our communities, we still have some concerns that could be addressed or clarified. Equity is an important issue for our nation's cities and towns. As much TEA-21 funding as possible should go directly to locally-elected officials to determine how to use the money. Rural areas should not be pitted against urban areas. All local leaders should be playing a determining role in deciding how the money will be spent.

There is a lot of initial excitement about the additional funding levels that TEA-21 provided but the excitement has been tempered by the lower appropriation levels in the Federal budget and the use of the first year's additional dollars by State governments to fund State projects and project overruns.

In some of our cities, particularly those States where control of the flow of TEA-21 funding to local governments through metropolitan planning organizations, MPOs, for large urban areas are losing portions of their funding. Our cities have let us know that in the case of Connecticut, Florida and Indiana, apparently in these States where TEA-21 money has been allocated, the money has been given to the State to hold until the MPO has made a decision on how to spend the money.

The city of Hartford which participates in Connecticut's Capital Regional Council of Governments for the transportation infrastructure decisionmaking reported to us that a portion of the TEA-21 funds slated for the Hartford region was syphoned off by the State. We need assurance that cities and towns are able to get the money that is specifically outlined and allocated for their use.

Metropolitan planning organizations also pose another challenge to cities and towns, especially smaller cities and towns. The process for competing for Federal funds through the local metropolitan planning organization is very difficult. It is difficult for the city to duplicate the scoring process. A project may have significant local importance, however, when modeled on a regional basis, it cannot compete.

The variables used by the State Department of Transportation and metropolitan planning organizations (MPOs) to determine allocation of funding are usually based on vehicle miles of travel and population. The number of accidents per vehicle mile of travel could and would provide additional documentation of transportation need in the community. In addition, this process does not assist cities in funding one-time, very expensive projects. It would be helpful if there was a way that flexible funding could be assessed to address the special one-time projects and smaller city needs.

I see that my time is growing short, so in concluding, I will say that we are very thankful to you for what you have done for us in our cities. As stated by Mayor Barr, we are not unhappy with TEA-21. In fact, we welcome all the hard work that has been done on this committee and others to help us implement it and we appreciate the opportunity to speak before you today.

I'd be happy to answer any questions.

Senator VOINOVICH. Thank you, Mayor Bartlett.

Senator Chafee.

Senator CHAFEE. No, you go ahead, Mr. Chairman. I have a question of Mayor Barr perhaps.

Senator VOINOVICH. Why don't you go ahead?

Senator CHAFEE. Mayor, as you indicated that this report that is quite complicated really wasn't much help, is that the gist of what you said? I'm talking about the section 104(j) report in your testimony.

Mayor BARR. To be honest with you, Senator, I go to MPO meetings and transportation is very difficult to understand. It takes a professional. I think for information to be useful, it has to be digested and distilled. The information that is coming out has not been through enough processing. We need simpler information, we need it so it can be looked at different levels of interpretation.

I would submit if we had better information during the debate about transportation reauthorization legislation, that different decisions would have been made at certain points along the way. I think your job and our job as local-elected officials would have been a whole lot easier.

The answer to your question is it's not in the format that we think it could be given current technology.

Senator CHAFEE. To the panel as a whole, I think Mayor Bartlett ended by giving us sort of faint praise but I saw some praise in there.

Mayor BARTLETT. Lots of it.

Senator CHAFEE. So I gathered in summation, even though each of you had some specifics—Ms. Jacobson had something in connection with the county approach and so forth—I take it most of you are pretty well satisfied with TEA-21. Is that a fair statement?

Ms. JACOBSON. Yes, I think that's correct. I think in my remarks I noted that all States are not treated the same and counties in all States are not treated exactly the same. Some have a very good relationship with their States, others do not. There are several States where I mentioned they don't think their responsibility is to funnel those funds down to local governments.

Senator CHAFEE. You took that survey and you had these reports.

Ms. JACOBSON. That's correct. We will share that information with you. We also will share that survey with you.

Senator CHAFEE. Mayor Bartlett.

Mayor BARTLETT. Yes, I'd say on the whole, we are very happy with TEA-21. Again, in certain situations where States have not worked well with the local MPOs and local divisions of government, there appear to be some problems in some parts of the country.

However in my region, in the SCAG region, we work extremely well and we feel the relationship has been a very good one.

Senator CHAFEE. I think one of the interesting things is a couple of you mentioned trying to make AMTRAK eligible for the transportation funding. I believe in that. You are for that, Ms. Bray, right?

Ms. BRAY. Yes, absolutely. I think the work that Congress did by and large, we wholly agree the vision and the direction is something we are in agreement with. Leaving rail out of the flexibility is a problem and then the redirection of funds on the programs, the repeat offender and the other program is a problem for us.

The problems that we're seeing now is some of the rule writing and other problems, but the vision and the work you did we are very much in agreement with.

Senator CHAFEE. As you know, the Senate really wanted to make AMTRAK eligible but the problem came in the House.

Ms. BRAY. We would like to continue to push that, though.

Senator CHAFEE. The same, Mayor?

Mayor BARR. Yes, Sir. I would agree with that.

Senator CHAFEE. Thank you very much, Mr. chairman.

Senator VOINOVICH. I was impressed with your testimony this morning. We are very anxious to make sure that this gets started the right way. I feel it is one of my responsibilities as chairman of this subcommittee to periodically bring you in and get an idea of how you think things are going. It is really important that we get your best thoughts on how you think this is being launched and see it's brought to our attention where you think we could take another tack and make it easier.

In addition, I think you heard the question I asked of Mr. Wykle in terms of do they have a baseline and can they show how they have improved getting the money out the door and getting things done. I'm anxious to get your thoughts on the procedures that identify areas that seem to be clogging our ability to get things done and see if we can't overall improve and make it a more efficient system.

I'd love to be able to say after 4 or 5 years, we can look back and we eliminated a year or we are building projects within 1½ or 2 years sooner than we were before because we paid attention to the details on this.

The other thing I have observed is there are differences within the various States. I hear the cities saying we're not getting the attention we ought to get and rural counties not being given the consideration that they ought to be given.

One of the challenges that you have with flexibility and having the opportunity to do things to what you think needs to be done in your respective areas is the challenge of trying to make sure that some of these local organizations do a better job of working together. Some of the A95 groups are just terrific and they really are consensus builders. Others have lots of problems.

I think the real question is what role should the Federal department be playing or what role should legislation be playing. I guess the way I come out on that is the big responsibility right now is to try and work out things on the local level.

I would like to mention one thing to you. We had kind of a nightmare in our State over the years about priority projects and so forth. We copied what they are doing in the State of Florida and created a Transportation Review Advisory Committee and started to look at the total transportation—basically highways throughout the State, the corridors, arteries and so on—and prioritized them, Tier 1, Tier 2, Tier 3. That was tough and it was tough getting objective standards. It took us 3½ to 4 years to get the standards so that everyone felt comfortable with them but it's amazing how that has helped in terms of the allocation of resources.

The other thing it did is, as Senator Chafee knows, most Congressmen and Senators get their demonstration dollars for various pet projects they have. Under ISTEA we only used about half of our money because many of the demonstration projects weren't going to be funded.

This time around because we had the track process, I think we're going to use just about every one of those demonstration dollars because when Members of Congress came in with their demonstration project identifications, they were made in conjunction with projects on Tier 1 or Tier 2, and it's been just a whole different type of approach than what we had prior to our getting our act together on the State.

It's a lot of work to do but I think with this flexibility more of that kind of thing needs to be looked at on a statewide basis. When you do that, you have a better feel among the various partners, counties, States, townships that they are really participating in this decisionmaking and they know what is going to be built because you can say that's going to happen and you know it's going to happen.

The other thing I want to congratulate the committee and Congress on is the fact that we can count on this money each year so that you can plan and you know what the future looks like.

I want to say thank you for being here and we look forward to working with you.

Mayor BARTLETT. I'd like to invite you and Senator Chafee out to California to the Southern California Association of Governments. Our MPO has a really unique body in that we have 71 members, locally-elected officials as our regional council and all of our decisions are based on performance-based measures. I think it's really great and you would like to see it. So when you're in California, I hope you will come and visit us.

Senator VOINOVICH. I'll write it down. Thanks very much.

Ms. JACOBSON. Come back fishing to Racine too.

Senator VOINOVICH. Thank you very much.

Senator VOINOVICH. We will move on to our third panel.

**STATEMENT OF ROY KIENITZ, EXECUTIVE DIRECTOR,  
SURFACE TRANSPORTATION POLICY PROJECT**

Mr. KIENITZ. My name is Roy Kienitz. I am executive director of an organization called the Surface Transportation Policy Project. We are a coalition of 200 national, State and locally-based organizations that work to make transportation work better for people and for their communities. Our members are concerned with everything from scenic and historic preservation and the environment to the health of downtown businesses and access to transportation for all members of society.

I would certainly be remiss if I did not take this opportunity to recognize the work of the committee on TEA-21, and particularly that of Senator Chafee who we really recognize as one of the primary leaders in the Senate, not just on this bill, but for the last two decades on these and many other issues. We just want to express our thanks to you, Senator, and we will be sorry to see you go.

Senator CHAFEE. Thank you.

Mr. KIENITZ. Bad for us, good for you, I'm sure.

I'll divide on the TEA-21 implementation into two categories. The first is the performance of USDOT in implementing the portions of TEA-21 over which it has discretion. We heard a lot about that this morning from the DOT witnesses.

This includes regulatory programs, discretionary funding programs. I think we give them generally good marks so far on that work recognizing however that probably most of the important decisions frankly have yet to be made.

The discretionary funding programs, including those for community planning, which was mentioned earlier, innovative finance, border infrastructure, things like that, the work that's gone on so far seems good but whether or not a discretionary program is a good program depends on whether it funds good projects. At some level until we see the list of the projects that come out of those programs, we will have a tough time telling whether the program has been worth the money or not.

The second category is the regulations USDOT has to write in order to implement various portions of the bill. As has been discussed, there is going to be a lot of talk about streamlining of the project approval process to try to make that work better. There is going to be a hearing on that specifically, so I won't go into depth on that today and hold those comments in abeyance until the next hearing.

I will talk about two issues with regard to the regulations and the planning process. There is an opportunity for changes to those regulations now that TEA-21 has passed. I'll talk about two things, the first of which is the major investment study.

Since 1992, USDOT has had a program for States and MPOs to use a reasonably rigorous process of benefit-cost analysis when they plan to spend a very large amount of money to add either a new transit capacity or new highway capacity. We think this has really been a benefit. It only applies to projects in the plus \$100 million range.

It was really a reform to the system that existed previously in which the requirement that if you wanted to use Federal money to build a new transit project, there were several years of benefit-cost analysis and if you wanted to build a new highway with the same amount of money, it was a pat on the back.

They have now created a process which is an equal level of review in terms of both rigor and technical analysis for either one of those projects. We think that has been very valuable.

ISTEA and TEA-21 are much talked about as bringing a new spirit of innovation into transportation and really trying to put them on the ground into actual practice. We would like to note for the committee the existence of the major investment study is the place where that dialog now occurs when a large amount of money is going to be spent. There are some calling for that process to be eliminated entirely and we think it can be integrated into a streamlined review process in a way that doesn't cause delay but leads to better decisions in the end.

Senator VOINOVICH. Where does that take place?

Mr. KIENITZ. It's something that is called a major investment study. When a State or MPO wants to spend more than \$100 million on either a major new transit system or major new road, it is a technical evaluation process they go through to look at cost and benefits of the different options.

Senator VOINOVICH. Is that made available to the Federal Government in terms of their determination as to whether or not they are going to allocate the dollars?

Mr. KIENITZ. The Federal Government will allocate the dollars regardless of the decision. Yes, the document is made available. It's entirely a State and local decision what to do with the information once you've developed it. The Federal Government simply says you do have to look at the costs and benefits of the different options according to a uniform technology methodology so that the result isn't skewed.

Senator VOINOVICH. How long has that been around?

Mr. KIENITZ. Since 1992.

A second part of the planning regulation that is going to be under debate that we'd like to talk about is something mentioned briefly which is the system for allocating funds within a State after those funds are given out by the Federal Government.

There is a huge debate here, as you know, about equity and equity of the Federal funding formula and whether some areas of the country were getting too little and others were getting too much. Our analysis of Federal data shows that the inequities that exist inside States are often an order of magnitude larger than the inequities that have existed among States with major metropolitan areas in most places getting much less of a return on their dollar than others.

There is a provision in TEA-21 that says in deciding how States are allocated within a State, the State department of transportation shall sit down and discuss that with the local officials from around the State before making a decision. We just want to make sure USDOT recognizes that so that there is a transparent process for making those allocations within a State. We think that is important.

Finally, I would say in spite of the good work done by USDOT, we do see some troubling signs about the implementation of TEA-21 occurring at the State level. I will close on this. This has to do with one of the very complicated provisions of how the money is being supplied.

One of the great innovations of TEA-21 was to make sure every gasoline tax dollar coming into the Federal Trust Fund could be spent and would be guaranteed to be spent and go out to State and local governments. That is an innovation in the program that everyone has supported.

Unfortunately the new budget authority that goes along with that guarantees that there will always be more budget authority going out to States than will be actual dollars to spend. This creates a structural shortfall between the amounts promised and the amounts available. Within each State, that shortfall has to go somewhere. Unfortunately, the data we have show that it goes disproportionately to safety programs, environmental programs and some of the perhaps less traditional ways of spending funds.

So we think if technical changes to TEA-21 were to be considered, the committee would do well to close this gap so that every gas tax dollar could still be spent but that the amount being promised to a State is the same as the amount they can actually spend

so you don't end up with inequities among the various categories of spending.

That is the one issue we would identify if the committee does choose to get into making technical changes to the bill.

Those are my comments. Thank you.

Senator VOINOVICH. Our next panelist is Taylor Bowlden, vice president, Policy and Government Affairs, American Highway Users Alliance. Thank you for being here.

**STATEMENT OF TAYLOR R. BOWLDEN, VICE PRESIDENT, POLICY AND GOVERNMENT AFFAIRS, AMERICAN HIGHWAY USERS ALLIANCE**

Mr. BOWLDEN. Thank you for inviting Highway Users to testify. Having administered the business coalition called Keep America Moving during the development of TEA-21, we are very interested in how the law is implemented.

Let me begin by saying we didn't get everything we wanted in TEA-21 but we still consider it landmark legislation principally because of the highway funding guarantee. Left in tact, that guarantee will put trust back in the trust fund which is an objective that we and others fought hard to win. It's the first ever statutory guarantee. The taxes is paid for road and bridge improvements will actually be used for that purpose.

Since there may be efforts to encroach on it, I wanted to make two additional points. No. 1, with a backlog of poor pavements, low posted bridges and congested freeways, every State needs the money. No. 2, a recent report of the Joint Committee on Taxation makes it clear that even with the guarantee, we still aren't spending all the taxes that motorists pay each year into the highway account. In fact, the cash balance in the account will grow by almost 400 percent in 10 years.

We urge the subcommittee to resist any effort to encroach on the funding guarantee. Speaking of encroachments, my second issue is the livability agenda which has been mentioned. I know from the statements made today the subcommittee is well aware how the President proposes to pay for it. We were pleased Chairman Chafee wrote to Secretary Slater expressing his reservations about the prospect of reopening TEA-21. Senator Byrd added his dissent in an appropriations hearing recently telling Secretary Slater, no thanks.

There are a couple of other reasons to be skeptical about the livability agenda. The premise seems to be that unlivable suburbs develop because government invests in infrastructure, highways, water and sewer systems and as a result, people have an incentive to move further out of town.

The Vice President wants to invest in public transit instead of new highways and programs to encourage zoning to prevent low-density development. The evidence suggests this approach won't work because it is based on a misunderstanding about why people choose where to live and how to travel.

As indicated in my testimony, most people choose where to live based on a desire for good schools, more living space and a safe neighborhood. The availability of transportation options ranks low on the priority list in choosing where to live.



In addition, more people are driving and often driving alone, not because they don't have or don't like other alternatives but because driving is the only form of transportation that meets their particular needs. It is especially true of working women who comprise over half of the new drive alone commuters in the last decade and who typically run numerous errands on the way to and from work.

My testimony cites a March 3 Washington Post article on this subject but there was an equally good article exactly on this point in yesterday's USA Today which I'd like to submit for the record.

Mr. BOWLDEN. The point is that our transportation investments should be aimed at meeting public demand rather than what we think the public should demand. In many cases, traffic flow improvements and highway capacity projects will be the only effective means to address transportation demands in fast growing areas.

My third issue is safety. In TEA-21, Congress for the first time cited safety explicitly as one of the factors that the States have to consider in developing transportation plans. Safety remains a major highway problem with as many as 15,000 deaths a year attributable in part to roadway hazards. Yet, to date safety has been given very little link in DOT's planning documents.

We hope the subcommittee will encourage DOT to make safety a top priority in its planning guidance.

The fourth issue is environmental streamlining and I know you're going to have a subsequent hearing on this but TEA-21 established this process to expedite the delivery of transportation projects. Part of the process has to involve an agreement between DOT and other Federal agencies about how these environmental reviews are going to be conducted concurrently.

No such agreement has been struck to date. So we hope the subcommittee will offer DOT whatever assistance may be necessary to encourage the other Federal agencies to reach some timely agreement with DOT.

Finally, no State has applied to participate in the interstate reconstruction tolling program that was part of TEA-21 despite an initial March 31 deadline for applications. Given the apparent lack of interest among the States and just in case the subcommittee considers a TEA-21 midcourse correction bill at some point, we hope you will simply repeal this program.

Thank you for the opportunity to testify today.

Senator VOINOVICH. We appreciate your being here with us.

Would either of you like to comment about my questions in terms of the recent court decision and does either of your organizations have any concern about it?

Mr. KIENITZ. I'll start even though Roy is much more expert on the subject matter. I've seen your letter and Senator Inhofe's letter and we very much agree with the principal point that EPA or DOJ more particularly should appeal that decision.

I would say in terms of the comments you heard from Mr. Wykle, and they are the comments I've heard from other administration sources, about the potential if you appeal you may end up with a worst decision than you originally had, to my own mind that's not very persuasive in part because if, in fact, you end up with an even worst decision in terms of the inability to proceed with transportation projects in various areas around the country, to me having

worked on Capitol Hill and being a lobbyist, what that means is it is even more likely that there will be interest in Congress then to take care of what may be a very real problem in the law.

So for that reason, I think there is every reason to go ahead with an appeal and hope that it will turn out right.

Senator VOINOVICH. If the appeal isn't taken and rests, Congress may sit back and say fine, and breathe a sigh of relief but ultimately down the road, be confronted with it. You'd rather take it all away and really identify it and if there is a problem, then it ought to be remedied.

I like your comment on this. Right now this talks about grandfathering but from my short review of this issue, it appears that the way this decision comes out, it could have an enormous impact on future highway projects, particularly with the new standards for ozone and particulate matter.

In my State, every area complies with the current ambient air standards. In fact, that was a major effort on my part to get that done. Obviously many of the areas will not comply even though the deadline for these is 2008 and 2010 on the particulate, so you're going to get a lot of areas around the country where they are not going to be meeting the new ones. From what I can sense, this could impact on these projects based on the new standards that are going to be coming into effect and really cause a great deal of problems. Any comment on that?

Mr. KIENITZ. I would only say we go back to first principles on this question. I think there can be a lot of healthy debate over how and where the different standards are applied. The principle we go back to is that both the Clean Air Act and ISTEA say highway spending programs and clean air have to be consistent with one another. How you propose to do that in your area is up to you.

Our view of the decision as of now is that its effect, as Mr. Wykle said, will be a brief hiatus in North Carolina and perhaps two other States until perhaps over the next 60 days but a longer difficulty in the case of Atlanta. I think Atlanta presents the case pretty strongly as a place where the local authorities just decided to not pay attention to the fact that their transportation plans had air quality consequences that would not allow them to meet even the current standards, let alone the future standards. The fact that comes back to haunt them I think ultimately can't be avoided.

Whether it's done in the context of this court decision or sometime in the future, I don't think even if the court decision is overturned, Atlanta is going to get out of their current situation.

On the question of the new air standards, you may be right, there may be an issue there about how this decision deals with those standards. I think we have until 2007 to know whether that's true or not. So to take action today based on what we think might happen in 6 or 7 years, seems premature.

Mr. BOWLDEN. In addition, we just had a briefing on this subject matter from Federal Highways in my office recently so I know a little bit about it, enough to know the court decision actually struck down four different provisions of an agreement between DOT and EPA so it affects four different types of projects. One type is those that were grandfathered and another is those proceeding under a

clean air budget submission in cases where the State's implementation plan isn't in current approval.

Another type of project affected is non-federally funded projects in areas that don't have currently approved plans. There is a fourth category I can't recall right now.

So it's not just the grandfathered projects affected. During that briefing, they laid out the number of projects they've identified already that would be impacted around the country most immediately but they have no idea so far in terms of the non-federally funded projects how many of them will be impacted.

It may come as a surprise to a lot of State officials and local officials that some of their projects that don't involve any Federal funds may come to a halt if there is some enforcement of the non-Federal part of this court decision.

Senator VOINOVICH. It's something we're going to have to watch very carefully. I know that Senator Inhofe wanted to be here today but he's on the Armed Services Committee and they are dealing with Kosovo today. He submitted a statement that I'm going to accept into the record.

[The prepared statement of Senator Inhofe follows:]

STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR FROM THE STATE OF OKLAHOMA

Mr. Chairman, I would like to thank you for holding today's hearing. I welcome the opportunity to work with you as the new chairman of this important Subcommittee. There have been many overlaps between my Clean Air Subcommittee and the Transportation Subcommittee in the past through the CMAQ program and other air quality issues. The overlap is going to continue to grow and I am sure the two of us can work together to solve some of these problems.

The first problem is the recent court decision affecting the transportation projects in Atlanta which overturned the EPA's "grandfather" rule. I want to thank the chairman for joining with me in our letter to Carol Browner requesting that the Administration appeal this decision. As you know the deadline for the appeal is tomorrow.

It is imperative that the Clinton administration appeal this decision. If they do not, then highway projects across the country could be in jeopardy, basically nullifying the TEA-21 bill from last year. Last year's Transportation bill was written with the current EPA rule in mind and I am confident that Congress would have addressed this issue if they had known the court would have come to this decision.

If the Clinton administration fails to appeal this ruling then they must send Congress proposed legislation to address this problem. They can not ignore the problem and they can not adequately address the issue through administrative action.

The States and cities deserve and need a concrete national plan. If the court case is not overturned then legislation is both warranted and needed. Mr. Chairman, as the Clean Air Subcommittee Chair I welcome working with you on this issue and I hope the Administration will join us.

Senator VOINOVICH. It basically said if something can't be done about it, we look at dealing with this legislatively. I think there will be some reluctance on that because that opens the whole area, although I have some ideas where I'd like to open it.

Thank you for being here. I would like your continuing focus on how this is moving along and if there are some things from your point of views that need to be clarified or changed, let's get at them early on so that they don't fester and boomerang back on us later.

I'll hold the record open for 1 week for further testimony and the meeting is adjourned.

[Whereupon, at 11:45 a.m., the subcommittee was adjourned, to reconvene at the call of the chair.]

## [Additional statements submitted for the record follow:]

STATEMENT OF HON. BOB GRAHAM, U.S. SENATOR FROM THE STATE OF FLORIDA

I thank the distinguished Subcommittee Chairman for holding this important hearing today to highlight the TEA-21 legislation nearly a year after the Congress enacted it. TEA-21 is a landmark piece of legislation. This committee, working with our House colleagues, were able to pass legislation that accomplished many of my goals and the goals of my State. TEA-21 provides for a record level of transportation investment. TEA-21 moved the Federal highway program formula a step in the right direction toward true equity for all States. TEA-21 created many new programs which will help close the gap between the infrastructure needs of our country and traditional transportation funding, including the Transportation Infrastructure Financing and Innovation Act (TIFIA). TEA-21 also provided an opportunity to make the Federal highway and transit program more efficient and effective by streamlining environmental review.

Last year, throughout the debate on TEA-21, I always focused on one goal: to be able to promise my constituents that by 2003, the last year of TEA-21, our roads and bridges would be in better shape than they are today. In 1991, when ISTEA passed, I was not able to make that pledge, because I knew that the U.S. Department of Transportation had already estimated that the level of funding in the ISTEA bill would not close the gap between highway needs and money to meet those needs.

TEA-21 established a new budget category for the funding of the highway program which calls for funding levels each year to match the intake of gas taxes the year prior. This will be the first year we test the philosophy that we can commit to spending user fees exclusively to keep up the system. I'm dismayed by the President's 2000 budget proposal which called for the diversion \$1.456 billion in revenue aligned budget authority which resulted from increased tax receipts deposited into the highway trust fund. I expressed my concerns to Chairman Domenici, and am happy to know that he has strong plans to stick to the TEA-21 framework.

Thanks to low gas prices and a great economy, Americans have been taking more trips. TEA-21 specifically designed the RABA to account for this type of unpredictable change in the gas tax receipts. I do not believe that if gas tax receipts in the future drop dramatically, the Administration will be proposing to divert funds from other discretionary spending to keep the transportation budget at its current level. The diversion of the new money away from the formula programs would have had a very detrimental effect on my State and all donor States. My State would have dropped below the 90.5 cent Minimum Guarantee we fought so hard for last year.

I've spent 6 years since the passage of ISTEA fighting for a better rate of return for my State and all donor States. Not only were we fighting for an increase in the guarantee, but that the guarantee actually give States the rate we agreed upon. TEA-21 is a delicate balance of programs and formulas which cannot be tampered with without having serious consequences for someone. In the Administration's case, those affected are donor States like Florida.

TEA-21 provided my State with a 57 percent increase in funding over the ISTEA years. Our rate of return increased from 79 cents per dollar contributed to the Highway Trust Fund to 90.5 cents per dollar on formula programs, and a minimum of 85 cents per dollar on total funds made available to States. As you may recall, in the past, donor States were penalized when they received Federal discretionary funds. Money would be taken out of their equity guarantee. Now that this penalty is eliminated, the Florida Department of Transportation is free to apply for any discretionary grants, and they are vigorously doing so.

Thanks to the average \$1.2 billion per year that Florida is now receiving in Federal highway funding, many projects in my State have been able to be accelerated, and now much needed transportation improvements will be completed at an earlier date.

Unfortunately, even the increase in gas tax money and the unprecedented amount of funding in TEA-21 is still not enough to maintain and enhance the quality of roads in Florida, or any other State. Traditional grant programs will be unable to ever meet the infrastructure needs of the nation. We must look at innovative solutions to our congestion problems. We need to use innovative methods to finance construction projects.

The distinguished Chairman and I worked very hard to develop the TIFIA Program. I want to thank U.S. Department of Transportation for working closely with us on the TIFIA program, and for shepherding it through the implementation process. I believe U.S. Department of Transportation will be ready to take application for the program as early as this summer. As you are all aware, the program will

extend Federal credit to major, high cost transportation projects so as to enhance the project's ability to acquire private credit. The TIFIA program authorized \$530 million to be extended in Federal credit over 6 years. The \$530 million can be used to leverage up to \$10.6 billion in private loans and lines of credit. The TIFIA program offers the sponsors of major transportation projects a means to amplify Federal resources up to 20 times. The objectives of the program are to stimulate additional nonFederal investment in our nation's infrastructure, and encourage private sector participation in transportation projects. I am very excited about the prospects for the TIFIA program. I believe that we must continue to look for new and innovative ways to meet our nation's infrastructure needs.

Senator Wyden and I also worked on ways to make the process of reviewing transportation projects more coordinated and streamlined. In our original discussions, we established a goal of trying to get all affected Federal agencies which have responsibilities for approving transportation projects to come to the table at the earliest possible time to identify any "fatal flaws" to a transportation plan. We also discussed the idea of rewarding States for doing exceptional environmental review on the State level, and trying to not make them subject to a duplicative review at the Federal level. This is where we started, and I unfortunately do not believe this is where we ended up. I know the distinguished Subcommittee Chairman is planning to hold a hearing to specifically focus on this issue later this month. I look forward to hearing the thoughts and concerns of the customers of the system, the Administration, and my colleagues.

I once again thank Senator Voinovich for having this hearing today and I look forward to the testimony.

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STATEMENT OF KENNETH R. WYKLE, FEDERAL HIGHWAY ADMINISTRATOR, GORDON J. LINTON, FEDERAL TRANSIT ADMINISTRATOR, AND RICARDO MARTINEZ, M.D., NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATOR

Mr. Chairman and Members of the Subcommittee, we are pleased to appear before you today to discuss the Department of Transportation's implementation of the Transportation Equity Act for the 21st Century (TEA-21).

#### I. INTRODUCTION

TEA-21 embodies President Clinton's vision of an integrated transportation system helping to ensure Americans' prosperity and quality of life into the new century. TEA-21 reflects the commitment of the Congress and the Administration to rebuild America's infrastructure in a fiscally responsible manner, while increasing safety, providing for a cleaner environment, and expanding opportunity.

Transportation Secretary Rodney E. Slater has established an agenda for the Department to build transportation systems which are international in reach, intermodal in form, intelligent in character, and inclusive in nature. The Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), and the Federal Railroad Administration (FRA) work together and with others, including State, local, and tribal governments; industry, labor, safety and environmental protection groups; other elements of the Department of Transportation; and the public to implement TEA-21 consistent with the intent of Congress.

This committee played a key role in enacting TEA-21, and we look forward to continuing to work with you as we implement this important legislation.

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), which many Members of this committee played a major role in shaping, marked a turning point in surface transportation policy. It said the Interstate System was completed, and that there had to be a more balanced and interconnected approach to meeting transportation needs.

In Congressional hearings and Departmental listening sessions, we all heard from a broad range of interests about how important it was to preserve the basic elements of ISTEA as a foundation for reauthorization legislation. TEA-21 does that, and it represents the next step toward meeting a variety of important mobility needs into the next century to serve our people and the communities in which they live. TEA-21 continues and adds programs to enhance safety and the environment. And it preserves opportunities for minority and women-owned businesses to participate in constructing highway and transit projects. It also provides greater equity to long-time donor States.

## II. TEA-21 OUTREACH AND EARLY IMPLEMENTATION

TEA-21 was passed by the Senate and the House of Representatives on May 22, 1998, and signed into law by President Clinton on June 9, 1998. Because of the importance of the law, we initiated a three-pronged approach to our earliest efforts to implement the statute.

TEA-21 funds were made available to the States and local and tribal governments. We expedited actions necessary to implement important safety provisions of TEA-21. And we conducted an extensive, national outreach to our partners and customers before implementing the new programs and provisions of this landmark legislation.

From July through November 1998, the Department of Transportation conducted 12 formal outreach sessions around the country to consult with partners and customers. Several Members, including Chairman Chafee, participated in these sessions. These included six general listening sessions and six on specific programs, including the Borders and Corridors program, safety programs, the Access to Jobs program, and planning and environment. Other focus meetings were held as well. For example, FHWA held four outreach sessions specifically focused on highway infrastructure safety to gain input from such partners as the Roadside Safety Foundation, the American Traffic Safety Services Association, and the American Association of State Highway and Transportation Officials. FHWA and FTA held five public meetings on the Congestion Mitigation and Air Quality Improvement Program. FHWA sponsored 12 meetings with Federal land agencies, State transportation agencies, and tribal governments specifically to discuss TEA-21 provisions related to the Federal Lands Highway Program. NHTSA held more than 40 meetings with State and local governmental officials, safety advocates, and stakeholders to discuss TEA-21 safety programs. FTA held a series of workshops in September and October last year. Similarly, the FRA held several outreach sessions across the country on the maglev, high-speed rail, and intermodal flexibility aspects of TEA-21, and has participated in FHWA-FTA workshops on innovative finance.

The DOT also quickly issued required regulations and necessary guidance to implement important, time sensitive provisions of the Act. For example, NHTSA and FHWA issued interim final rules on 0.08 BAC *per se* laws, open container laws, repeat intoxicated driver laws, and seat belt use incentive grants by the end of October. FTA and FHWA published interim implementation guidance on the Congestion Mitigation and Air Quality Improvement Program in October and on conformity with the national Intelligent Transportation Systems (ITS) Architecture and Standards on December 21. FHWA published implementation guidance for TEA-21 discretionary programs, including the discretionary bridge, innovative bridge, ferry boat, Interstate Maintenance, Public Lands Highways, and National Scenic Byways between July and November. This guidance described activities eligible for discretionary funding under each of these programs and the application process and criteria to be used to evaluate candidate projects. In addition, we created a TEA-21 website providing up-to-date information on the status of implementation and have distributed tens of thousands of brochures summarizing the Act and specific programs authorized by the Act, as well as publishing a report in November 1998 of our implementation actions.

## III. INVESTMENT FOR THE FUTURE

Transportation plays a critical role in our communities. By providing the means for connecting people with goods, services, and one another, transportation serves as the nation's arteries through which flows all that sustains our people and binds them together as a nation. And, this movement of people and goods must be done in as safe a manner as possible.

Among the most significant features of TEA-21 is its affirmation of the commitment to rebuild America by providing a record level of balanced investment in our highways, transit systems, and intermodal facilities. It does so in a fiscally responsible manner, which protects the landmark 1997 balanced budget agreement and other vital national priorities, including education, child care, and Social Security.

TEA-21 establishes a guaranteed level of Federal surface transportation investment through fiscal year 2003 that is linked to receipts into the Highway Trust Fund. Almost \$200 billion in obligations is provided by TEA-21 through fiscal year 2003.

### A. Fiscal Years 1998 and 1999 Funding

Recognizing the importance of TEA-21 funds to the nation's overall economic well-being, we made every effort to get Federal-aid highway funds into the hands of the States as quickly as possible. On the day of enactment, FHWA released fiscal

year 1998 Federal-aid highway apportionments and Federal-aid obligation limitation to the States. And in accordance with TEA-21 provisions, FHWA apportioned fiscal year 1999 Federal-aid highway funds and Federal-aid obligation limitation on the first day of the current fiscal year.

In addition, FHWA made available over \$450 million of discretionary funds for fiscal year 1998 and 1999 to the States, and will release an additional \$140 million in discretionary funds this Spring. These discretionary grants have been made in accordance with criteria we published in the Federal Register. We also used these notices in the Federal Register to solicit project applications for funding. We will soon submit our report to the Congress explaining how each project was selected based on the published criteria.

We are pleased to report that the States are moving aggressively to take advantage of the increased Federal-aid highway funding available through TEA-21. Even given its enactment 8 months into the fiscal year, States were able to use all of the fiscal year 1998 Federal-aid obligation limitation that was subject to lapse if not used by the end of the year. Through 6 months of fiscal year 1999, the States have obligated just over 52 percent of this year's obligation limitation that is subject to lapse. And thus far, based on an informal survey by our FHWA Division Offices, no States are currently facing difficulty in meeting the State/local matching requirements under TEA-21.

FTA issued a Federal Register Notice on June 24, 1998, indicating how TEA-21 changed transit funding for fiscal year 1998. Likewise, FTA issued its annual Notice of Apportionments right after the start of fiscal year 1999. This Notice included information on certain specific program changes, and remains a good reference for FTA grantees on the details of TEA-21.

One of the key changes made in the transit program was the elimination of operating assistance for urbanized areas over 200,000. At the same time, capital costs were redefined to include preventive maintenance, defined as all maintenance costs. This change has gone very smoothly. We have heard of only a few isolated cases where transit operators are having problems coping with the elimination of operating assistance. In nearly all cases, the change in the definition of capital has had the intended effect of providing the flexibility local systems need to easily make the transition to an all-capital program.

Right after TEA-21 passed, NHTSA distributed fiscal year 1998 funds for State and Community Highway Safety Grants (Section 402). On October 29, 1998, NHTSA apportioned the State and Community formula funds for fiscal year 1999. FHWA also distributed fiscal year 1998 Federal-aid highway funds for the 0.08 BAC safety incentive (Section 163, Safety Incentives to Prevent Operation of Motor Vehicles by Intoxicated Persons) on September 13, 1998, and fiscal year 1999 funds for the seat-belt safety incentive (Section 157, Safety Incentive Grants for Use of Seatbelts) on October 26, 1998. NHTSA also distributed funds for Section 411 Safety Data Improvement grants and other occupant protection and alcohol related incentive grants.

TEA-21 also established two penalty transfer provisions (Open Containers and Repeat Offenders). Joint FHWA/NHTSA interim final rules establishing these two programs were published in the Federal Register on October 6 and October 19, 1998, respectively. NHTSA and FHWA have also collaborated in formulating tables showing which States face transfer of Federal-aid construction funds unless suitable legislation is passed and in effect by fiscal year 2001.

#### *B. Fiscal Year 2000 and Beyond*

During the formulation of the President's proposed budget for fiscal year 2000 budget, the Department made a conscious effort to be consistent with TEA-21's provisions. In fact, as Secretary Slater has stated, our proposal reflects TEA-21 with just a few exceptions. One of these exceptions is our proposed distribution of the \$1.456 billion in revenue aligned budget authority, the amount resulting from increased tax receipt estimates deposited into the Highway Trust Fund.

The Department's budget proposal for fiscal year 2000, consistent with Administration policy, dedicates a portion of revenue aligned budget authority to critically important safety, environmental, and research and technology programs. In addition, the proposal also dedicates a portion of the \$1.456 billion to transit, which is consistent with the Administration's priorities and also honors our commitments made during TEA-21 negotiations that transit programs grow equally as highway programs grow.

We know that Congress, and this committee in particular, worked hard last year to reach agreement on TEA-21 and its provisions on revenue aligned budget authority, and we are not seeking to reopen those issues. The purpose of the Department's budget proposal for fiscal year 2000 is simply to support valuable initiatives that

the Administration believes in strongly—programs that are critically important to our quality of life and to safety.

Meanwhile, as States continue to manage the greatly increased funding levels available through TEA-21, we anticipate greater use of Federal matching flexibility provisions, including several added in TEA-21. The Tapered Match (Section 1302), Surface Transportation Program (STP) Match (Section 1108(c)), Credits for Acquired Land (Section 1301), and Toll Revenue Credits (Section 1111(c)) provisions should serve to assist States in addressing short-term cash-flow problems and long-term matching requirements. And again, based on our informal survey of the States, we anticipate the fiscal year 1999 Federal-aid highway construction program to increase by 19.7 percent from fiscal year 1998, and for the “State-only” investment in highway construction projects to increase by 5 percent from fiscal year 1998 levels.

We are moving forward aggressively to implement the Transportation Infrastructure Finance and Innovation Act (TIFIA), a provision of TEA-21 that this committee was instrumental in developing. TIFIA authorizes the Department to provide direct loans, lines of credit, and loan guarantees to public and private sponsors of major surface transportation projects of national significance. The program is designed to fill market gaps and leverage substantial private co-investment by providing supplemental capital. Based on our current implementation schedule, we hope to publish a final rule for this program later this Spring, and to be in a position to select projects for the initial round of funding in fiscal year 1999 by the end of the fiscal year.

#### IV. REBUILDING AMERICA

##### *A. Transportation Infrastructure*

TEA-21 reauthorized the Federal-aid highway program through fiscal year 2003. States receive Federal funds for the basic components of the Federal-aid highway program, the National Highway System (NHS), the Surface Transportation Program (STP), the Interstate Maintenance Program, the Bridge Replacement and Rehabilitation Program, and the Congestion Mitigation and Air Quality Improvement Program (CMAQ), through application of statutory formulas. Federal funding for highway safety infrastructure largely comes from these core programs as well as the 10 percent STP safety set-aside. More funds are thus available for infrastructure safety improvements under TEA-21 than under ISTEA due to the increased authorizations. As noted above, FHWA made fiscal year 1998 funds for these programs available to the States immediately after enactment of TEA-21. Similarly, fiscal year 1999 formula funds apportionments were made to the States at the beginning of fiscal year 1999. And FHWA made discretionary grant funding available to States for fiscal years 1998 and 1999 in accordance with published selection criteria.

We are seeing the results of ISTEA funding on bridge and pavement conditions and are optimistic that we will experience continued improvement with the increased funding from TEA-21. The percentage of deficient bridges on the NHS declined from 25.74 percent in 1994 to 25.39 percent in 1997, the latest year for which data are available. For bridges on all roads, the improvement was from 32.53 percent in 1994 to 30.18 percent in 1997.

Approximately three-quarters of Federal-aid highway expenditures are for pavement-related improvements. And we are seeing improvements in pavement condition similar to the improvement for bridges. The percentage of miles on the NHS that meet Owner-Agency managed pavement performance for acceptable ride quality increased from 89.6 percent in 1994 to 90.4 percent in 1996, the latest year for which we have complete data for pavements.

Two provisions of TEA-21 established the National Corridor Planning and Development Program (NCDP) and the Coordinated Border Infrastructure Program (CBI). Together these programs will provide funds to States to help manage commercial and other traffic as the result of increased trade and economic activity, particularly along our nation's border. The FHWA published a Federal Register notice on November 12, 1998, asking States to submit fiscal year 1999 grant applications for participation in these programs. The notice also published the selection criteria we would use for these programs. The FHWA received over 140 applications seeking more than \$2 billion in fiscal year 1999 funding, far more than the TEA-21 authorized amounts for these programs. We expect to announce later this Spring how the \$124 million available this Fiscal Year will be allocated to selected projects for these programs.

Another major area of interest in TEA-21 is the transit New Starts program administered by FTA. TEA-21 authorizes 191 New Start projects, but calls on FTA to rate these projects “Highly Recommended,” “Recommended,” or “Not Rec-



ommended." We recently published our annual New Starts report in which we rated the 40 or so projects now in Final Design or Preliminary Engineering. We used the existing New Starts policy to rate the projects, since TEA-21 made only minor changes in the statutory criteria. We are pleased with the rating process so far. While a number of projects were rated "Not Recommended," most of these are so rated because the local financial plans are not yet far enough along, and local financial commitments are not yet in place. We have always encouraged strong local financial commitments, so this was not a surprise. It should be emphasized that the ratings are for fiscal year 2000; they can be changed next year if the financial plans are completed, and commitments are made.

For fiscal year 2000, the President's budget proposes to fund six of the projects which were rated best for new Full Funding Grant Agreements, committing about \$1 billion of the New Starts commitment authority made available by TEA-21. Nearly \$3 billion remains available for commitments in future years.

One of the key factors in choosing which projects to fund (besides obtaining a rating of "Recommended" or better) was readiness. Our intent is to sign Full Funding Grant Agreements only when costs are well defined. Projects which were "Highly Recommended" and "Recommended" also had to be in a position to have their cost estimates complete, local funding sources established, and local priorities set before we recommended a project for a Full Funding Grant Agreement in the President's budget.

We have also just issued a notice of proposed rulemaking on New Starts. This NPRM, issued April 7, 1999, begins the formal process of issuing the regulation, required by TEA-21, to define the New Starts rating process in more detail, and put the other TEA-21 New Starts changes into place.

TEA-21 also created the Magnetic Levitation Transportation Technology Deployment Program, which provides competitively awarded planning grants. FRA published an interim final rule establishing regulations governing the program in October 1998. Eleven applications for planning funds have been received and FRA will announce the recipients for fiscal year 1999 funding in the near future. The Administration shares with the Congress the ultimate goal of deploying cost effective magnetic levitation systems. To achieve this end, the Administration has requested \$20 million in fiscal year 2000 for additional magnetic levitation research.

#### *B. Transportation System Operations*

The Department's mission is to ensure a safe, efficient, productive, environmentally sensitive, and convenient transportation system. TEA-21 strengthens the emphasis in ISTEA on improving the efficiency of our transportation system by improving its operation. During the 20th Century, great progress was made in transportation through the construction of our transportation system. In the 21st Century, increased mobility, improved safety, an enhanced environment, and a higher quality of life will come from our use of technology and improvements in the operation of the transportation system. As we implement TEA-21, we have begun to emphasize the need to improve the operation of the national transportation system.

We have issued a call for a national dialog on management and planning guidelines for the use of intelligent transportation systems. One of the keys to effective operations using ITS technologies is integration. Integration of the systems, integration of the institutions, and integration of the geo-political regions within urban areas. The principal means of accomplishing this is through the use of the National System Architecture. Following intensive review and consideration by an internal task force, interim guidance on consistency with the national ITS architecture was developed and issued internally by both the FTA and FHWA on October 10, 1998. This led to the commencement of a national dialog with the publication on December 21, 1998, in the Federal Register of the interim guidance on consistency. We are currently in the process of developing final guidelines, based on this dialog, which we will have in place in the Spring of 2000.

To better ensure that systems integration conforms with the national architecture, several training courses have been developed by FHWA and FTA. These courses vary in detail from an introductory course to an intensive 3-day course. We have now trained hundreds of system integrators and field staff on the use of this important approach to deploying systems, and we now stand ready to train thousands more in State and local government.

Another opportunity to enter into a national dialog for the effective deployment of intelligent transportation systems is to identify which standards are critical to ensuring national interoperability or critical to the development of other standards, and specifying the status of the development of each standard identified. By using an advisory group, we were able to quickly converge on preliminary recommended criteria for making a determination of standard criticality, as well as our list of criti-

cal standards. Again, to broaden the opportunity for listening to States, local governments and systems integrators, we published on December 22, 1998, in the Federal Register proposed criteria and a draft list of critical ITS standards. A final report to Congress is currently being prepared and should be ready for delivery within the next 2 months.

Finally, with the establishment of a new focus within FHWA, we are beginning a national dialog to raise the level of consciousness of the critical need that currently exists to improve the management of the operation of our nation's infrastructure. We will begin working with institutions, associations and the public and private sectors to develop concepts for improved operations and to establish a framework for improving the management of the performance of transportation resources to deliver integrated transportation services to the traveling public and those responsible for the movement of freight, under varying conditions.

Under ISTEA, we began to develop intelligent transportation systems in earnest. TEA-21 recognizes the need to integrate technology and promote ITS standards and operational consistency in our transportation system. While the discretionary ITS funds made available by TEA-21 were subsequently earmarked by Congress, we believe the guidelines established in TEA-21 for the use of those funds are sound. As we implement TEA-21, even in making policy and programmatic decisions unrelated to funding, we will act in accordance with those guidelines. We intend to use ITS deployment as a bridge to incorporate the use of this technology in the mainstream of transportation planning, construction, and operation. For example, we have urged the Federal Communications Commission to dedicate an N11 number for use nationwide by transportation system operators who will use ITS technologies employing radio waves to improve the safety and efficiency of transportation system operations.

ITS holds great promise for enhancing safety, and we will work to realize this potential. One of the foremost examples of this is in the Intelligent Vehicle Initiative (IVI). The primary goal of the IVI is to accelerate the development, introduction, and commercialization of driver assistance products to reduce motor vehicle crashes and incidents by working jointly with the motor vehicle and trucking industries, State and local transportation agencies, and other stakeholders.

The following are a few recent examples of some of the potential life saving work that is being undertaken in IVI.

- Under a recent broad area announcement inviting proposals for operational tests, we have received several proposals for heavy vehicles, transit vehicles, specialty vehicles and light vehicles. The successful proposals, over the next few years, will see the introduction and operation of driver assistance technologies that will provide an extra measure of protection—using technologies that should be commercialized within the next 5 years.
- A conference is scheduled for later this month on the technology that appears very promising for eye-based measures of driver alertness known as PERCLOS. The purpose of this conference is to serve as a venue to present and learn the most recent research and technological developments.
- The Advanced Law Enforcement and Response Technology (ALERT) strategic plan is under development. The ALERT vehicle technologies has brought a greater degree of safety to operators of police and other emergency vehicles by integrating many functions so that the vehicle operator can focus on the driving tasks. In order to advance the ALERT capabilities into other vehicle types, this program has been included in the IVI program.
- We recently completed a successful study that resulted in rear-end collision warning alert algorithms and the development and validation of procedures for testing them in light vehicles.
- For transit vehicles, we have just begun three efforts that will produce performance specifications documents: The Change/Merge Collision Avoidance System for which research will start this month and beginning in May are the Rear Impact Collision Warning and Mitigation work and the Rear End (Forward) Collision Warning and Mitigation work.

### *C. Expanding Opportunities*

TEA-21 continues the Department's Disadvantaged Business Enterprise (DBE) program. While we have made much progress toward ensuring true equal opportunity, much remains to be done. The DBE program has been the Department's most important tool for promoting equal opportunity in Federal transportation contracting since it was first signed into law by President Reagan in 1983. We greatly appreciate the bipartisan support that we received from Congress and from this committee in reauthorizing this program.

On January 29, 1999, the Department issued the final regulation that will guide the administration of the DBE program. This regulation has three major goals:

- to create a level playing field on which DBEs can compete fairly;
- to mend, but not end, the DBE program; and
- to make the DBE program more effective and efficient for all participants.

This regulation responds to over 900 public comments on two previous proposed rules. It also scrupulously adheres to the points raised in numerous recent court cases dealing with the DBE program, including the Supreme Court's decision in *Adarand v. Peña*. And it addresses issues raised by Congress. Specifically, the rule:

- explicitly prohibits quotas;
- requires recipients to set goals based on local evidence of the actual availability of qualified DBEs;
- requires recipients to use race-neutral methods (like outreach and technical assistance) to meet as much as possible of their overall goals; and
- establishes a personal net worth cap of \$750,000 for participants in the program.

The result is a program which will do more to promote equal opportunity and will fulfill the President's promise to "mend" but not "end" affirmative action.

The Appalachian Development Highway System (ADHS) is a regional program to improve infrastructure and enable economic development. Congress has authorized 3,025 miles for the ADHS. About 2,400 miles are open to traffic and another 70 miles are under construction. Projects to complete the remainder of the systems are in preliminary or final design stage. FHWA administers the program similar to the National Highway System (NHS) program.

The Appalachian program has been critical to the economic development of the Appalachian States. The Appalachian region has been bypassed in large measure by the Interstate System, and has been struggling for decades to overcome the economic consequences of its geographic location. The ADHS is envisioned as an instrument of economic development, connecting Appalachia to the Interstate System, providing access to the region, and stimulating local job creation. Completion of the Appalachian Development Highway System will help ensure Appalachian residents have access to health care and education, as well as jobs.

The economic impetus to expand the existing roadway system has never been more compelling. A modern system of highways is an essential first step toward fostering economic growth and enabling Appalachia to become a net contributor to the national economy.

TEA-21 created the Job Access and Reverse Commute program administered by the FTA. This program provides for grants for transportation services for people getting off welfare, and to improve reverse commute services to allow central city residents better access to suburban jobs. We have issued a solicitation for grants, and received a positive response, with applications for over \$111 million in funds. In fiscal year 1999, \$75 million is available. We are now completing our review of the applications, and we plan an announcement soon.

## V. SAFETY

### A. Initial Safety Activities

As Secretary Slater has stated repeatedly, safety is the Department of Transportation's top priority. TEA-21 expands and strengthens successful highway safety programs.

TEA-21 reauthorized all of NHTSA's programs and added several new ones. In doing so, it supplemented our occupant protection and drunk driving prevention efforts, chiefly by providing new incentive programs to increase the use of seat belts and to promote the enactment and enforcement of 0.08 percent blood alcohol concentration standards for drunk driving.

We have issued implementing regulations for all of the new and amended highway safety programs in TEA-21 that Congress intended to be in effect in fiscal year 1999. Moreover, we issued them in time for the State legislatures to consider responsive legislation in their 1999 legislative sessions. As a result of our quick response to the Congressional directives, we have maximized the States' chances of qualifying for highway safety grants and avoiding penalties. We issued the regulations as interim final rules, so that they would take effect before the legislatures convened but could be quickly amended in response to comments. These programs and the status of their implementation are discussed below.

### B. Improving Safety

TEA-21 continues the 10 percent Surface Transportation Program (STP) set-aside for safety construction, providing more than \$630 million to States in fiscal year

1999 and approximately \$3 billion over 6 years. Project eligibility is expanded to include off-roadway safety and bicycle improvements. In fiscal year 1999, FHWA has made available \$154.8 million to States to be used exclusively for rail-highway crossing improvements or elimination. Another \$162 million in fiscal year 1999 has been made available exclusively for hazard elimination. The remainder of the STP safety set-aside, \$314 million, is available for either of these two programs, at the States' option. In addition, other categories of Federal highway funding, for example, National Highway System (NHS), Interstate Maintenance, and general STP funds, may be used by States for safety improvements.

In addition, on December 11, 1998, FRA and FHWA published a notice in the Federal Register implementing the TEA-21 funded program to eliminate highway-rail-road grade crossing hazards in designated high-speed rail corridors. The notice solicited applications related to the designation of additional high-speed corridors and applications for Fiscal Year 1999 funding. FRA and FHWA are currently reviewing applications from States for the \$5,250,000 that is available for Fiscal Year 1999.

TEA-21 designates safety and security of the transportation system as one of seven newly established areas to be considered in the overall transportation planning process, both at the Statewide and metropolitan levels. This is the first time safety has been named as a planning factor and it has great potential to increase highway safety. Safety now can be built in from the start of the planning process.

TEA-21 increased the funding FHWA provides to Operation Lifesaver from \$300,000 to \$500,000. Operation Lifesaver is a non-profit organization whose mission is to educate the public about grade crossing hazards and the dangers of trespassing. The increased funding in Operation Lifesaver is particularly welcome since this program funds countermeasures against rail trespassers. We have made progress combating grade crossing deaths, but have not seen the same gains in reducing trespasser fatalities. In 1997, for the first time, the number of people killed while trespassing on train tracks was greater than the number killed at highway-rail grade crossings.

TEA-21 made substantial improvements in the motor carrier safety program. It increased motor carrier safety funding by 30 percent over ISTEA levels. It established dedicated funding for motor carrier safety information systems for the first time. This dedicated funding will allow us to make needed improvements to the Federal and State information systems designed to identify the high-risk motor carrier. It will allow us to get more complete and timely information on carriers and drivers. It will also enable FHWA to expand the Performance Registration Information Systems Management (PRISM) program with 20 States expected to participate by the end of fiscal year 2000. PRISM links safety data with State vehicle registration information to help identify carriers prone to crash involvement and applies a progressive set of sanctions, including loss or denial of vehicle registration privileges, to those carriers that do not improve their safety record. The information system funds will also be used to improve the commercial driver program, an area where there has been little Federal investment since the implementation of the Commercial Drivers' License Program in 1992. We will be examining improvements to the CDL licensing and testing program and examine a graduated license for truck drivers.

In fiscal year 1999, we have distributed \$90 million in Motor Carrier Safety Assistance Program (MCSAP) funds to States. About 80 percent of these funds support the salaries of State safety inspectors who conduct more than 2 million roadside driver and vehicle inspections each year. Each year, FHWA trains approximately 100 State employees to conduct compliance reviews; 1,000 State motor carrier enforcement personnel to perform commercial motor vehicle inspections; and 500 State MCSAP officers to conduct motor coach inspections. The Federal Government funds 33,000 bus inspections a year. FHWA has been working closely with the National Transportation Safety Board (NTSB) and the State of New Jersey in investigating recent bus crashes in New Jersey.

With TEA-21, Congress has moved MCSAP from an activity-based program to a performance-based one. The program will now be based on crash reduction outcomes. This approach, pilot tested by FHWA and the States beginning in 1996, is now implemented in all States, ahead of the TEA-21 year 2000 requirement. FHWA recently published a notice of proposed rulemaking to implement the MCSAP changes, creating for the first time incentive funding to encourage States to reduce crashes.

The Act also made changes to the enforcement program. Two of these changes are particularly noteworthy. Any motor carrier determined to be unfit will be prohibited from operating in interstate commerce. This provision expanded authority that was only available in the past for passenger and hazardous material carriers. We expect to issue an interim final rule shortly implementing this provision. TEA-21 also increased penalties for violations of any motor carrier safety regulations up to \$10,000

per violation. This change will allow us to use penalties more effectively to sustain carrier safety compliance.

*Federal-State Partnership and Safe Communities.* TEA-21 continues ISTEA's recognition of the importance of the Federal-State partnership in the highway safety area. States use their NHTSA Section 402 funds for programs in priority areas determined by the State. At least 40 percent of these funds are required to be used by States and communities to address local highway safety problems. TEA-21 also provides new and significant flexibility in the use of State highway safety incentive funds to advance this partnership. For the first time, a considerable portion of highway safety incentive funds are available for a wide range of traffic and roadway safety projects, as well as highway construction projects.

State and local efforts to implement TEA-21's safety programs require the development of new partnerships. Federal, State, and local officials are working with private and public partners to determine the best uses of the newly authorized transportation funds.

Safe Communities is a community-based injury prevention initiative that establishes community ownership and support for transportation safety programs. This initiative stresses the need for coordination and collaboration among civic leaders, community activists, local businesses, the media, law enforcement, health, and medical practitioners. Communities are encouraged to examine their injury and fatality data and associated costs and create effective strategies tailored to the specific needs of a given community. For example, Florida, among other States, is strongly supporting community programs with the Section 163 incentive funds it received for adopting and enforcing a 0.08 BAC law.

The Safe Communities initiative is growing rapidly. It has become a top Departmental priority and all of the DOT agencies are engaged in its implementation. As these efforts bear fruit, they reduce injuries and health care costs and move in the direction of becoming economically self-sustaining. The program now includes over 620 American communities, exceeding our 1999 goal of 600 Safe Communities. By the end of 2000, we hope to have 1,000 Safe Communities in the program. Our ultimate goal, of course, is for every American community to be a "Safe Community," and the funding authorized in TEA-21 will assist us in achieving our goal.

*Section 157—Seat Belt Incentive Grants.* Beginning in fiscal year 1999, TEA-21 authorized \$500 million over 5 years for incentive grants to encourage States to increase seat belt use rates. States will receive funds based on projected annual savings in Federal medical costs resulting from the State's increased seat belt use rate. States may use these grant funds for any eligible Title 23 project. If any unused funds remain available during fiscal years 2000 through 2003, the Secretary is directed to select plans submitted by the States for innovative projects that promote increased seat belt use rates and to allocate those funds to the selected States. For fiscal year 1999, however, TEA-21 directs that any unused funds that remain available are to be apportioned to the States for the surface transportation program.

As President Clinton has noted, the proven importance of this program to highway safety is considerable. In addition, State belt-use surveys are more accurate and comprehensive, thanks to the criteria required by this program.

After we issued the interim final rule for the Section 157 program, we made fiscal year 1999 grants to 38 States, D.C., and Puerto Rico, totaling \$52.648 million, representing the savings in Federal medical costs in those States. State proposals for the program's seat belt innovative grants for fiscal year 2000 were due to NHTSA on April 7, 1999. We have received 46 proposals.

*Section 163—0.08 BAC Per Se Incentive Grants.* Beginning in fiscal year 1998, TEA-21 authorizes \$500 million over 6 years for incentive grants to States that enact and enforce laws that make operating a motor vehicle with a blood alcohol concentration (BAC) of 0.08 or greater a per se offense of driving while intoxicated. Grants are based on the amount a State receives under the Section 402 highway safety program and may be used for any eligible Title 23 project.

Pursuant to our interim final rule, we made grants in fiscal year 1998 to 15 States whose 0.08 laws were in effect, totaling \$49.005 million. In fiscal year 1999, grants will be awarded to at least 17 jurisdictions: the 15 States that received grants in fiscal year 1998, Washington State, where an 0.08 law became effective on January 1, 1999, and the District of Columbia, where an 0.08 law was signed into law on March 27, 1999.

We are pleased that Senators Lautenberg and DeWine have introduced S. 222, the "Safe and Sober Streets Act of 1999," a bill to adopt uniform .08 BAC standards nationwide. The bill helps focus national attention on a national problem: the deaths and injuries of our citizens in highway crashes involving alcohol.

President Clinton has repeatedly given his strong support to establishing .08 BAC as the *per se* standard for driving while intoxicated. In 1997 alone, more than 16,000

people died, and more than 327,000 were injured, in alcohol-related crashes on our nation's roads. We can do much more to stop this needless tragedy. By securing the enactment of .08 BAC laws, S. 222 will enable law enforcement officers to get drinking drivers off our roads.

There are many good reasons for making .08 BAC the *per se* standard. Research has shown that virtually all drivers are substantially impaired at .08 BAC in tasks critical to driving, such as braking, steering, lane changing, and judgment. As a driver's blood alcohol content approaches .08 BAC, the risk of being involved in a crash increases significantly. The experience of States that have adopted a .08 BAC limit shows that this measure against drunk driving has the potential, when applied nationwide, to save hundreds of lives each year. NHTSA documented the scientific basis for .08 BAC in a 1992 report to Congress.

The Administration strongly supports S. 222 as an appropriate means for ensuring that .08 BAC is adopted as the *per se* standard for drunk driving throughout the nation. We are pleased to see that S. 222 expressly incorporates the grant program established by TEA-21 to encourage the States to adopt .08 BAC laws.

Over the 6 years of the grant program, we expect to see a number of States join the 16 States and the District of Columbia that have already adopted .08 BAC laws. The effect of the sanctions contained in S. 222, which would take effect October 1, 2003, should be to persuade the remaining States to adopt a .08 BAC limit.

*Funding Transfer Programs: Section 154—Open Containers; Section 164—Repeat Offenders.* Beginning in fiscal year 2001, TEA-21 established penalties for States that fail to: (1) enact laws prohibiting open alcoholic beverage containers in the passenger area of a motor vehicle; and (2) provide certain minimum penalties for repeat intoxicated drivers. A State that does not enact and enforce each of the required laws will trigger a funding transfer of a portion of the State's Federal highway construction funds to its Section 402 highway safety program. The penalty is the transfer of 1.5 percent of the State's funding for those programs for fiscal year 2001 and fiscal year 2002, and 3 percent for each year thereafter. The funds transferred to the safety program are to be used for alcohol-impaired driving countermeasures, or directed to State and local agencies for enforcement of related laws. The Act provides that States may elect to use all or a portion of the transferred funds for hazard elimination activities under Section 152 of Title 23.

The States have until September 30, 2000, to comply with the requirements of the transfer provisions. NHTSA has received laws and proposed legislation from more than 30 States in each category for our review to assist these States in determining whether existing or proposed legislation will help them to comply with the Section 154 and Section 163 requirements. A joint FHWA/NHTSA interim final rule on these programs was published in early October 1998.

In addition, TEA-21 amended and reauthorized or newly authorized the following NHTSA highway safety grant programs.

*Section 405—Occupant Protection Incentive Grants.* Beginning in fiscal year 1999, TEA-21 authorized \$83 million over 5 years for a two-part program to target specific occupant protection laws and programs. Under Part One, a 5-year program beginning in fiscal year 1999, States will receive grants if they demonstrate that they have in place certain occupant protection laws and programs, such as primary seat belt use laws and special traffic enforcement programs. Under Part Two, a 2-year program in fiscal year 2000 and 2001, States will receive grants if they carry out child passenger protection and education activities. States may use the grants for occupant protection programs.

Pursuant to NHTSA's interim final rule, applications for grants under Part One are due on August 1, 1999. Guidance for Part Two, which will be implemented in fiscal year 2000 and fiscal year 2001, is in process.

*Section 410—Alcohol-Impaired Driving Countermeasures.* TEA-21 substantially revised the Section 410 alcohol-impaired driving countermeasures incentive grant program, and authorized \$219.5 million over 6 years to continue the program. Under the revised program, States can receive up to 2 basic grants, plus supplemental grant funds. To qualify for one of these basic grants, States must demonstrate that they have in place certain laws or programs, such as administrative license revocation laws and graduated licensing programs for new drivers. To qualify for supplemental grant funds, States must meet certain performance criteria based on their alcohol-involved fatality rates. States may use these grant funds to implement and enforce alcohol-impaired driving programs.

NHTSA made Section 410 grants to 38 States and the District of Columbia in fiscal year 1998, totaling \$34.5 million. Implementation of the impaired driving programs supported by these grants will bring us closer to our goal of reducing alcohol-related traffic fatalities to 11,000 by 2005.

*Section 411—State Highway Safety Data Improvement Grants.* Beginning in fiscal year 1999, TEA-21 authorized \$32 million over 5 years for highway safety data improvement incentive grants, to encourage States to improve their highway safety data.

NHTSA issued an interim final rule to begin implementing this program. In fiscal year 1999, grants were made to 47 States, DC., and all territories, totaling \$4.807 million. With these grant funds, States will be able to participate in our national program to improve the consistency of crash data.

*Section 402—State and Community Highway Safety Grants.* TEA-21 authorized \$932.5 million over 6 years to continue the keystone of NHTSA's efforts in highway safety, the Section 402 State and community highway safety grant program. Section 402 provides for a highway safety program in every State and territory. Under this program, NHTSA gives formula grants to States, set by statute, to conduct programs to reduce traffic crashes and resulting deaths, injuries, and property damage. NHTSA also gives technical assistance to States and local communities to develop and implement their highway safety programs.

The States use their Section 402 grants to address their key safety problems. In fiscal year 1999, the Section 402 grants made to all States, D.C., and the territories totaled \$142.5 million.

Of the total of the available RABA funds in fiscal year 2000, DOT has proposed using \$125.5 million to fund highway safety activities within NHTSA.

## VI. ENVIRONMENT

### *A. Protecting the Environment and Building Livable Communities*

President Clinton announced a Livability Initiative earlier this year to help communities across America achieve strong, sustainable economic growth while ensuring a high quality of life for our citizens. In support of this initiative, DOT is pursuing a Livability Agenda that aims to help citizens and communities: preserve green spaces, ease traffic congestion, restore a sense of community, promote collaboration, enhance economic competitiveness, and highlight transportation safety. The transportation safety component has been added through the Safe Communities initiative.

Comprehensive planning, rooted in decisionmaking at the local and State levels, with transportation as a key element, is precisely the means to achieving better communities that the Clinton-Gore initiative contemplates. Just as transportation planning relies on State and local decisionmaking to achieve transportation goals, the Livability Initiative recognizes that different communities face different circumstances and provides resources so that they can plan and achieve their own development goals.

This committee is to be commended for its leadership role in preserving the best of the Intermodal Surface Transportation Efficiency Act of 1991 and shaping a new comprehensive measure. TEA-21 supports communities and States as they choose transportation facilities and services that best meet local transportation priorities, through the metropolitan and Statewide transportation planning processes. Communities can choose how to use Federal transportation dollars in conjunction with other community efforts to achieve new, more livable patterns of growth. A balanced transportation system is only one of a number of ingredients in community viability. Transportation planning works side by side with the development of decent housing, commercial investment, parks and recreation areas, good schools, and effective public safety to make our localities good places to live, work, and raise families.

TEA-21 gives communities and States many opportunities that can be used to meet the nation's mobility needs and improve its quality of life. National Highway System, Surface Transportation Program, and transit programs each have broad eligibility and flexibility. This means that States and local areas can tailor the use of Federal funds to best meet their needs whether they be for transit, bicycle/pedestrian facilities, highways, ride-sharing programs, safety projects, intermodal connections or other improvements. We are committed to helping State and local transportation agencies develop projects and services that reduce pollution and are more compatible with the environment.

Specific TEA-21 programs give States and communities even more tools to carry out projects for enhanced livability. These include:

- New and enhanced safety programs that already have been noted.
- Transportation Enhancements and Transit Enhancements funds can be used to help communities improve the cultural, aesthetic and environmental qualities of their transportation systems.

- The Congestion Mitigation and Air Quality Improvement Program (CMAQ) can be used to fund transportation projects to help communities meet national ambient air quality standards or to maintain compliance with the standards.

- The Transportation and Community and System Preservation Pilot Program (TCSP) provides grants to demonstrate ways to make communities more livable and research funds to help investigate relationships between transportation and land use.

- Intelligent transportation system technology will help make communities more livable by reducing traffic congestion, managing traffic flows of people and goods, and assisting with local responses to transportation emergencies.

- Transit programs strengthen opportunities for alternative forms of transportation and accessibility. In particular, the Job Access and Reverse Commute program will fund transportation projects that help lower-income workers and those making the transition from welfare rolls to payrolls get to their jobs.

Elected State and local officials are pursuing smart growth and revitalization initiatives that can use these Federal tools. The growing interest in smart growth was demonstrated by the successful ballot initiatives in over 200 communities last year. The Congress has also acted by establishing bi-partisan task forces on livability and smart growth in both the House and the Senate.

The Department of Transportation's programs and activities work in close partnership with those of other Federal agencies to provide States and communities with a combination of resources and tools. For example, State and metropolitan transportation plans must conform to State air quality plans approved by the Environmental Protection Agency (EPA) to ensure that our air is getting cleaner. Cities and counties that have established enterprise communities and empowerment zones to spark new life in long dormant and neglected areas know how transportation can contribute to getting workers to jobs and customers to goods and services. Communities seeking to preserve the heritage of the past and to build a prosperous future can bring together such programs as DOT's Transportation Enhancement Program and Treasury's historic preservation tax credits with HUD's Community Development Block Grant program to turn deteriorated neighborhoods into attractive places to live and work. Such local partnerships give added power and reach to any single agency's contribution.

The Livability Initiative, particularly its transportation components, combines what we can do now with what we must do in the future to make sure that the places in which we live will remain the places in which we will want to live. The Administration is proposing several important enhancements to existing transportation programs and initiatives.

Proposals in the President's Fiscal Year 2000 Budget would increase funding for transit, CMAQ, transportation enhancements, the TCSP pilot program, and Job Access/Reverse Commute grants. These additional funds will encourage transportation alternatives, and support critically important environmental, safety and research and technology programs. The proposed increase in funding reflects our commitment to reduce air and water pollution and make transportation more compatible with the environment. It will help maintain a balance in funding between highway and transit, consistent with TEA-21. Increased CMAQ funds will help our communities carry out activities that help them meet and maintain air quality standards. The increased TCSP pilot program funds will help us meet the tremendous popular demand for the program DOT—had over 500 applications, which totaled over \$400 million, for Fiscal Year 99 TCSP funds.

Other elements of the Livability Initiative—the Better America Bond program and the Regional Connections program—complement the existing programs of DOT. By providing added financial power to States and localities to preserve open space, rehabilitate parks, and reclaim brownfields, the new bond program will enhance the quality of community life, while transportation programs can make sure that people have the access they need to these spaces. By improving regional cooperation and fostering public-private partnerships, the Regional Connections program will boost the effectiveness of regional planning, which can lead to better decisions about transportation and land use choices.

In too many places, Americans have become disconnected from their communities—from being able to walk quietly and peacefully in neighborhoods without enduring the roar of traffic or unsafe road conditions; from getting to their jobs and shopping areas and back to their homes easily without sitting for hours in gridlock; from living close to the places where they work and play, worship and learn; from experiencing the nation's heritage in its historic buildings and places; and from enjoying clean air, pure water, and green open spaces. The Livability Initiative is about helping Americans reconnect with these essential values.



We are particularly excited about the changes made by TEA-21 to the tax code's provisions related to employer-provided transportation benefits. We are taking an aggressive role in encouraging implementation of these changes, which we are calling "Commuter Choice." We are extremely grateful for the leadership taken by this committee in this area. As you know, TEA-21 allowed transit benefits up to \$65 per month to be provided in lieu of compensation, increasing the incentive for employers to provide transit passes to their employees. It also will raise the level for tax-free transit benefits to \$100 per month in 2002. We have developed a program of outreach and technical assistance and plan to increase our efforts in this area later this year.

Many other DOT programs also contribute significantly to the quality of life. Approximately 30 percent of travel is driving for pleasure and recreation. Recreational travel is increasing 5 percent annually. With increased TEA-21 funding, the Federal Lands Highway Program is better able to improve recreation access to National Forests, National Parks, Public Lands, and Wildlife Refuges. The economic viability of travel and tourism in communities adjacent to Federal lands is enhanced through improved transportation provided by this program.

#### *B. Environmental Streamlining*

TEA-21 directs the Department of Transportation to develop and implement a coordinated environmental review process for highway and mass transit projects by focusing efforts on better and earlier coordination among the Federal agencies that must review and approve these projects.

As part of its overall TEA-21 implementation outreach efforts, the Department sponsored three information exchange meetings in Chicago, IL, Washington, DC, and Portland, OR, that generated suggestions on how to implement environmental streamlining. On November 6, 1998, the Department sponsored a One-DOT Conference on Planning and Environment in Providence, RI, that also provided us with ideas that we can use.

Secretary Slater wrote to his counterparts in other Federal agencies in February soliciting their cooperation in a multi-agency effort to develop joint environmental review processes. A Federal interagency meeting was convened April 6, 1999, to initiate the development of a streamlined environmental review process, and consensus was reached on the content and scope of a national memorandum of understanding. We expect to complete this memorandum of understanding within the next 2 months.

We met with the American Association of State Highway and Transportation Officials (AASHTO) on April 8, 1999, to listen to the concerns of our State partners about streamlining the environmental review process. We have received views on this important issue from other stakeholders as well, including the American Public Transit Association (APTA), the American Association of Metropolitan Planning Organizations (AMPO), and the Coalition to Defend NEPA. Rulemaking will be required to change existing requirements, and we expect to publish a notice of proposed rulemaking within the next 120 days, incorporating much of what we have learned from our partners and customers. We expect that this rulemaking will take some time to complete due to its importance and complexity, the great interest in it, and the wide diversity of views we must be sure to consider.

### VII. ADVANCING RESEARCH AND TECHNOLOGY

Building upon ISTEA, TEA-21 continues the strong multi-year authorizing foundation for Research and Technology with provisions addressing surface transportation research, technology deployment, training and education, State planning and research, ITS, and university centers. TEA-21 highlights the importance of strategic planning for R&T, evaluation, and the value of partnerships among Federal, State, and local governments, academia, and the private sector. The rich set of R&T programs provided by this legislation provides an excellent foundation to achieve the benefits of innovation for the traveling public and economic productivity. The ultimate purpose of FHWA's R&T program is to deliver, with our partners, innovative technologies and services which add value to current practices and applications. This includes a broad array of transportation innovations and solutions in the areas of highway safety, infrastructure renewal, operations and mobility, planning and environmental protection, and policy evaluation and system monitoring.

TEA-21 also changed the way R&T funding is determined, and this has presented challenges to us in carrying out a comprehensive R&T program. Due to a combination of factors, including application of obligation limits and increased designations within the legislation, we have experienced a reduction in the amounts of funds available at the Federal level to carry out important program initiatives. Recognizing the need to assure a viable R&T program to support innovation and deployment,

FHWA, AASHTO, and TRB are providing the leadership and facilitating a national partnership initiative to “maximize the contribution of research, development, and technology transfer toward a safe and efficient transportation system” and to identify increased resources to assure that critical priority needs are addressed. These expanded partnership initiatives will serve us well in the future, but we also recognize that increased FHWA R&T funding resources from the RABA increase are an important ingredient.

#### VIII. CONCLUSION

This committee has played a pivotal role in developing and refining so many of the newer programs in ISTEA and TEA-21 and in solidifying the core transportation programs. Members are to be commended for their leadership on CMAQ, enhancements, TCSP, the DBE program, ITS, intermodalism, a range of safety initiatives, and other visionary accomplishments.

To conclude we are working hard to implement TEA-21 as quickly and effectively as possible. Implementation has gone smoothly, and we look forward to working with you to ensure that remaining issues are also addressed in a timely, effective, and responsive manner.

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#### RESPONSES BY KENNETH R. WYKLE TO ADDITIONAL QUESTIONS FROM SENATOR CHAFEE

*Question 1.* TEA-21 is a very large bill giving the Department a long list of implementation tasks and requirements. Implementing such a large piece of legislation is always challenging. A reorganization is also challenging. Why did you choose to do both at the same time? How has this affected your ability to implement the various provisions and respond to Questions and concerns from your customers? Do you expect that the reorganization will save you money?

Response. The Federal Highway Administration (FHWA) agrees that implementing the provisions of the Transportation Equity Act for the 21st Century (TEA-21) is a challenging undertaking, as is implementing a reorganization within the Agency. However, the reorganization was designed to enhance the FHWA's ability to meet the challenges of the 21st century and is, in fact, placing the Agency in a better position to implement TEA-21.

The following provides some background on the rationale behind the FHWA's reorganization. In 1997, the FHWA initiated a review of its organizational structure to assess the Agency's current and future operating environment and to propose a structure for the field organization that would be consistent with that environment. The review was prompted by a number of factors. First, over the past several years there have been significant changes in the Agency's operating environment. These changes include:

- completion of the Interstate System and the designation of the National Highway System;
- enactment of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), which stressed less Federal oversight of operations, greater program flexibility, enhanced environmental and planning analyses, and multimodal solutions;
- legislative changes impacting the Motor Carrier Program, which have shifted emphasis from Federal inspection and enforcement to funding and program support of State and local agencies performing these functions;
- globalization of the economy and its impact on the nation's transportation systems;
- need to develop new sources of infrastructure funding;
- continued growth in highway usage and congestion;
- growing need for solutions to transportation challenges that are intermodal in nature and that incorporate advancements in technology, such as intelligent transportation systems; and
- explosion in the availability and use of information technologies.

Second, under the Vice President's leadership the National Performance Review has stressed the enhancement of direct customer service and the streamlining and reinvention of business processes, organization, and decisionmaking to produce more effective results at less cost. This has included further decentralizing program authorities to the organizational level at which direct customer service actually takes place, reducing layers of management, increasing supervisor to employee ratios, promoting a team environment, and empowering frontline employees.

Third, in its report accompanying the Department of Transportation's fiscal year 1998 Appropriations Act, the House Appropriations Committee expressed an interest in streamlining the FHWA's field structure. The committee placed special em-

phasis on the reduction or elimination of FHWA's regional offices. Additionally, TEA-21 itself called for the elimination of any programmatic decisionmaking responsibility of the FHWA's regional offices for the Federal-aid highway program as well as the actual elimination of the regional offices themselves and the establishment of technical resource centers.

Finally, the FHWA had also examined the skills that would be needed to address the changes in the Agency's operating environment via a formal agency-wide skills needs assessment. The skills assessment examined current and future skill needs, the current availability of these needed skills within the Agency, and plans for closing the gap between current and future needs. To meet the evolving needs of its customers, the FHWA requires a concentration of skills in areas such as engineering, intelligent transportation systems (telecommunications, electronics, systems engineering, etc.), innovative finance, intermodalism, planning, and environment.

While the first phase of the FHWA's reorganization focused on the field, the rationale cited above applies equally to Headquarters. Consequently, in early 1998, a second phase of the organizational review was initiated that focused on identifying those Headquarters functions that would complement the field restructuring and assure an FHWA responsive to meeting the needs of the transportation system and its customers in the 21st Century.

As a result of the second phase of the review, the FHWA has established 4 Resource Centers in the field to provide expert technical advice and assistance to customers, partners, and its own State-level Division offices; empowered its Division offices by delegating virtually all programmatic and administrative decisionmaking authority to them; and reorganizing Headquarters to focus on the Agency's core businesses (Planning and Environment; Infrastructure; Operations; Motor Carrier and Highway Safety; and Federal Lands Highways). Additionally, the Headquarters organization consists of 8 cross-cutting service business units (Policy; Research, Development, and Technology; Administration, Chief Counsel; Civil Rights; Public Affairs; Corporate Management; and Professional Development).

The Agency's implementation of TEA-21 has actually been enhanced as a result of the reorganization. In fact, TEA-21 played a significant role in determining the ultimate structure of the Agency. The new offices have assumed their roles and TEA-21 implementation is going smoothly.

Ongoing TEA-21 implementation efforts include numerous outreach sessions with partners and customers concerning TEA-21 provisions; publication of informational brochures on TEA-21; and the establishment of an Internet web page that provides, among other things, the text of the legislation, fact sheets on the programs and provisions in TEA-21, progress reports, TEA-21 program guidance, and TEA-21 authorizations, apportionments, etc. These vehicles have allowed the FHWA to provide current information on its TEA-21 activities to its partners, customers, and the general public on a real-time basis.

Regarding the Question about saving money as a result of the reorganization, we offer the following information. Over the long term, the FHWA will achieve monetary savings as a result of closing five of its former regional offices; however, to date the Agency has not realized any savings associated with the reorganization. The objective of our restructuring is not to reduce costs; rather it is to ensure that the Agency is organized to achieve its vision and strategic goals as we move toward the next century. We are doing this by empowering our State-level division offices, eliminating our nine regional offices, establishing four resource centers to support the division offices in their primary role of program delivery, and restructuring our Headquarters to focus on the Agency's core businesses for the future.

#### PUBLIC-PRIVATE PARTNERSHIPS FOR CMAQ PROGRAM

*Question 2.* Included in TEA-21 is a provision that would facilitate the use of public-private partnerships under the CMAQ program. Under this new eligibility, CMAQ funds can be allocated to private and non-profit entities for land, facilities, vehicles, etc., that will help to improve air quality in a region. Fleet conversion of vehicles to alternative fuels is an example of the kind of project envisioned. How are you implementing this new eligibility? Are you taking aggressive steps to make the private sector aware of this new eligibility?

*Response.* The following is an excerpt from our new guidance for implementing the CMAQ program which provides the simplest, yet most complete, description of how we intend to implement these provisions. The guidance was issued on April 28, 1999. We are forwarding the CMAQ program guidance to you under separate cover.

*Public Private Partnerships:* TEA-21 provides greater access to CMAQ funds for projects which are cooperatively implemented under agreements between the public and private sectors and/or non-profit entities. The new statutory language leads to

several important changes regarding the eligibility of joint public/private initiatives. Nevertheless, it remains the responsibility of the cooperating public agency to apply for CMAQ funds through the metropolitan planning process and to oversee and protect the investment of Federal funds in a public/private partnership.

TEA-21 requires that a legal, written agreement be in place between the public agency and private or non-profit entity before implementing a CMAQ-funded project. This provision supersedes the requirement under previous guidance that private entities have public agency sponsors before participating in CMAQ-funded projects. These agreements should clearly specify the use to which CMAQ funding will be put; the roles and responsibilities of the participating agencies; cost-sharing arrangements for capital investments and/or operating expenses; and how the disposition of land, facilities and equipment will be effected should the original terms of the agreement be changed, such as insolvency or a change in the ownership of the private entity.

While the new statute provides greater latitude in funding projects initiated by private or non-profit entities, it also raises concerns about the use of public funds to benefit a specific private entity. Since the public benefit is air quality improvement, it is expected that future funding proposals involving private entities will demonstrate strong emission reduction benefits. Furthermore, this new flexibility requires that greater emphasis be placed on an open, participatory process leading up to the selection of projects for funding. Because of concerns about the equitable use of public funds, FHWA and FTA consider it essential that all interested parties have full and timely access to the process of selecting projects for CMAQ funding. This should involve open solicitation for project proposals; objective criteria developed for rating candidate projects; and announcement of selected projects.

The TEA-21 also contains some restrictions and special provisions on the use of CMAQ funds in public-private partnerships. Eligible costs under this section may *not* include costs to fund an obligation imposed on private sector or non-profit entities under the Clean Air Act or any other Federal law. For example, CMAQ funds may not be used to fund mandatory control measures such as Stage II Vapor Recovery requirements placed on fuel sellers. Energy Policy Act requirements which apply to private sector entities are not eligible for CMAQ funds. However, if the private or non-profit entity is clearly exceeding its obligations under Federal law, CMAQ funds may be used for that incremental portion of the project.

Decisions over which projects and programs to fund under CMAQ should continue to be made through a cooperative process involving the State departments of transportation, affected MPOs, transit agencies and State and local air quality agencies. All projects funded with CMAQ funds *must* be included in conforming transportation plans and TIPs in accordance with the metropolitan planning regulations (23 CFR 450.300), the transportation conformity requirements (40 CFR parts 51 and 93), and National Environmental Policy Act (NEPA) requirements.

Activities eligible to be considered as meeting the local match requirements under the public/private partnership provisions include:

- Ownership or operation of land, facilities or other physical assets;
- Carrying out construction or project management; and,
- Other forms of participation approved by the U.S. DOT Secretary.

TEA-21 also contained special provisions for alternative fuel projects that are part of a public/private partnership. For purchase of privately-owned vehicles or fleets using alternative fuels, activities eligible for CMAQ funding are limited to the Federal share of the incremental cost of an alternative fueled vehicle compared to a conventionally fueled vehicle. Further, if other Federal funds are used for vehicle purchase in addition to CMAQ funds, such Federal funds must be applied to the incremental cost before CMAQ funds are applied.

Cost sharing of total project expenses, both capital and operating, is a critical element of a successful public-private venture. This is even more important if the private entity is expected to realize profits as part of the joint venture. State and local officials are urged to consider a full range of cost-sharing options when developing a public-private partnership, including a larger State/local match than the usual 20 percent required under Federal law.

In response to your second Question, we are taking aggressive steps to insure that the private sector is fully aware of the potential to use CMAQ funding. The guidance is being put on the worldwide web by both FTA and FHWA for anyone to access. We intend to discuss this with our field representatives at several video conferences so that they are fully apprised of the provisions implications. Perhaps more importantly, FHWA staff have already addressed and will continue to address numerous conferences and meetings to raise awareness on this provision. These have included the DOE's Clean Cities meetings, CONEXPO (construction industry exposition), Senate-sponsored briefings and others. Representatives from the alternative

fuels industry in particular have been in attendance and anticipate the use of CMAQ funds. During our outreach meetings in advance of the guidance, we specifically invited private sector participants and discussed with them the use of CMAQ funds for their possible projects. Finally, we are distributing the guidance through our usual networks and expect that States and MPOs will make further distributions.

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RESPONSES BY KENNETH R. WYKLE TO ADDITIONAL QUESTIONS FROM SENATOR VOINOVICH

*Question 1.* I am very concerned that the recent decision by the United States Court of Appeals for the District of Columbia March 2, 1999, in the *Environmental Defense Fund v. EPA* may thwart TEA-21 by stopping thousands of necessary highway projects around the country. As you know, this decision overturned a well-established EPA rule allowing States and metropolitan regions to "grandfather" approved highway projects into their transportation investment plans, even if a State's transportation plan subsequently failed to meet clean air goals.

Realizing that EPA has to make a decision on the appeal by tomorrow, April 16th, what has the Administration internally been doing to see that an appeal is made?

As a followup:

How many projects do you believe would be affected by this decision, both now and in the future?

Response. The Federal Highway Administration has discussed the possible consequences of the decision with the Federal Transit Administration, the Department of Transportation, the Environmental Protection Agency and the Department of Justice. On April 16th the Department of Justice concluded that it would not seek reconsideration of the decision by the D.C. Circuit, or ask the U.S. Supreme Court to review the ruling by filing a writ of *certiorari*. We support the Department of Justice's conclusion for several reasons. The Supreme Court is unlikely to review so technical a ruling by the D.C. Circuit, which is based on a fairly straightforward reading of the statute. Further, there is not a strong legal argument on which to base reconsideration or Supreme Court review. Neither the Clean Air Act, the relevant case law, nor the regulatory background of the provisions in Question provide solid support for such an action.

We believe it is preferable to accept the changes outlined in our guidance and move on, rather than to undergo the considerable risk and uncertainty that would accompany a motion for reconsideration or an appeal.

As of the week of May 3, the following is our estimate of the number of projects that are affected by the decision. We are currently in the process of updating this information, and these numbers can change.

- About 88 grandfathered projects, valued at about \$1.28 billion, will be affected in the 9 areas that are still in conformity lapse. The extent to which these projects will be affected depends on how long the area is in a lapse.

- There are 9 other areas where their current conformity determinations were based on submitted emissions budgets which were not found adequate by EPA. If conformity is not re-established in these areas within the next 3 months, about 40 additional projects, valued at about \$950 million could be affected. All of these areas are expected either to be found "adequate" by EPA prior to May 31st, or to reestablish conformity shortly, except for the Phoenix, San Joaquin Valley and Southern California areas, where it is expected that EPA will find the submitted budgets adequate or the MPO and DOT will reestablish conformity between June and August.

The future effect of this decision would be limited to those areas that become unable to determine conformity because of problems with the area's metropolitan transportation planning processes, and/or SIP development process. Since these problems are usually local in nature it is difficult to predict how many such areas there will be. As a result of the decision in such "conformity lapse" areas, FHWA and FTA could not continue to approve or fund projects during a lapse, unless the project had received a Federal funding commitment or an equivalent approval or authorization prior to the lapse, or was otherwise exempt from conformity.

Further, as the new national ambient air quality standards come into effect next year, emissions budgets will be tightened, and the number of nonattainment areas will increase. As a result, it may become more difficult for some areas to make conformity determinations.

## INNOVATIVE FINANCING PROGRAM

*Question 2.* What types of large scale transportation projects do you feel would benefit from the innovative financing program established under TEA-21? (NOTE: the bill established a line of credit worth \$10 billion for these projects.)

I understand that you have issued a notice of proposed rulemaking regarding the TIFIA credit program. When do you think you will be able to issue a final rule on this program?

*Response.* Projects that could benefit from TIFIA include those passenger rail, highway, bridge, transit, or intermodal freight facilities that cost is in excess of \$100 million and have revenue streams associated with them. TIFIA can provide these types of projects with credit assistance necessary to allow them to complete their financial plans and initiate the projects. The assistance may take the form of direct Federal loans, Federal loan guarantees, or standby lines of credit for up to one-third of eligible costs.

The final rule has been drafted and is undergoing clearance.

## INTERSTATE TOLL PILOT PROGRAM

*Question 3.* I understand that you did not receive any applications for the Interstate Toll Pilot program. I was wondering whether you could elaborate on why this is the case. Is this program too hot politically or are some of the projects not far enough along to submit a formal application?

*Response.* No States submitted projects in response to our first solicitation which called for candidates by March 31, 1999. For the most part, the States have not shared with us why they did not submit candidates. One State, Alabama, did write to express their view that the Interstate Highway System should remain free and to inform us they would be submitting no candidates.

Another State, Arkansas, did show an early interest in the toll pilot program. However, subsequently the State enacted legislation which put in place financial resources other than tolls to upgrade its Interstate system, and the State decided not to submit a toll pilot candidate. It is noted the early interest by Arkansas in the toll pilot program did draw opposition from the American Trucking Associations.

Recognizing that the Federal-aid highway program, by itself, will not be able to provide sufficient funds to the State transportation departments to improve many aging Interstate highways, other financing options, such as tolling, should be available to the States. Because of the controversy of converting a free Interstate highway to a toll facility, it will likely take States that wish to pursue this alternative time to develop support for this funding mechanism. We have left this pilot program as an open-ended solicitation, giving the States the flexibility to apply at any time until the three available slots have been filled.

## EXEMPTIONS FROM TRUCK SIZE AND WEIGHT LIMITATIONS

*Question 4.* During consideration of TEA-21 last year, amendments were added to provide for exemptions from Federal truck size and weight limitations. It would be my expectation that States and industries will continue to push for exemptions from the Federal limits. Will the Administration continue to actively oppose exemptions from truck size and weight limits set by Congress?

*Response.* The Department has been, and continues to be, strongly opposed to any proposal to change truck size and weight limits that would result in new special-interest exemptions. The patchwork of laws that has proliferated in recent years has the potential to interfere with interstate commerce, discourage compliance and adversely affect both safety and infrastructure conditions.

We are nearing completion of the Comprehensive Truck Size and Weight Study. This report will allow the Congress to evaluate the merits of alternative proposals with respect to their impact on agency costs such as pavement preservation, externalities (to include safety), shipper costs and rail competitiveness. We believe that proposed revisions to the current body of truck size and weight laws should be evaluated in a context which considers the above delineated impacts.

U.S. DEPARTMENT OF TRANSPORTATION,  
Washington, DC, June 24, 1999.

Hon. JOHN H. CHAFEE, *Chairman,*  
*Committee on Environment and Public Works,*  
*U.S. Senate,*  
*Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for the privilege of testifying on April 15, before the Committee on Environment and Public Works's Subcommittee on Transportation and Infrastructure, regarding implementation of the Transportation Equity Act for the 21st Century.

I appreciate the opportunity to review my testimony and have made minor edits to the transcript. Under separate cover, I am sending responses to your follow-up questions and those of Senator Voinovich.

It has come to my attention that some people may have misunderstood the remarks that I made regarding the Administration's fiscal year 2000 proposal concerning revenue aligned budget authority (RABA), on the one hand, and ways in which TEA-21 may support the Administration's Livable Communities Initiative, on the other. As for the Administration's RABA proposal, we believe that there is enough room in the appropriations process to make this happen if the Congress so desires. As for ways TEA-21 may support the Administration's Livable Communities Initiative, I specifically cited the Transportation and Community and System Preservation (TCSP) pilot program authorized by section 1221 as providing funds that communities could decide how best to spend. I did not say, however, that additional legislation is required to support the Livable Communities Initiative.

I would appreciate this letter being made part of the record from the April 15, 1999, hearing on implementation of TEA-21, in addition to my responses to your questions and my transcript edits.

Again, I was very pleased to appear before the Transportation and Infrastructure Subcommittee. I want to thank you for your continued leadership and I look forward to working with you in the future.

Sincerely yours,

KENNETH R. WYKLE,  
*Administrator.*

RESPONSE BY RICARDO MARTINEZ TO ADDITIONAL QUESTION FROM SENATOR CHAFEE

*Question 1. Repeat Offenders.* I understand that states are having some difficulty complying with the repeat offenders requirement in TEA-21. I was hoping you could shed some light on this difficulty. Does the underlying provision need to be modified, or is the NHTSA guidance too strict, or are the states simply soft on repeat offenders?

Response. After the enactment of Section 164, in the TEA-21 Restoration Act, NHTSA invited the States to submit laws and proposed legislation to the agency for review, to determine whether these laws or proposed legislation would enable the States to comply with the Section 164 repeat intoxicated driver requirements.

NHTSA has received laws and proposed legislation from 34 States for review, and we have completed one or more reviews for each of these States. Of the 34 States, we have determined that two of them (Michigan and New Hampshire) meet all the requirements of the Section 164 program. Four additional States (Arkansas, Iowa, South Dakota and Texas) submitted proposed legislation that we determined would enable these States to comply, if the legislation was enacted without change. Since then, Arkansas has enacted legislation. The new law will become effective on January 1, 2000, and we have determined that, beginning on January 1, 2000, Arkansas will be in full compliance with the Section 164 program.

To comply fully with the Section 164 program, States must meet four criteria: a 1-year license suspension; the impoundment, immobilization or installation of an ignition interlock system on all vehicles owned by the offender; mandatory assessment and treatment, as appropriate; and mandatory sentencing.

Based on the laws (and proposed legislation) the agency has reviewed from the 34 States mentioned above, 21 States comply (or would comply) with the license suspension requirement; 10 comply (or would comply) with the impoundment, immobilization or ignition interlock requirement; 20 comply (or would comply) with the assessment and treatment requirements; and 18 comply (or would comply) with the mandatory sentencing requirement.

The criterion that seems to be the most difficult for the States to meet is the criterion for impoundment, immobilization, or installation of an ignition interlock switch. Only 10 States have laws (or are considering proposed legislation) that would meet this criterion. This criterion, as enacted, requires States to make this

sanction mandatory. It also requires that the sanction apply to all vehicles owned by all repeat offenders. If this criterion were eliminated, or altered to provide the States with more flexibility, such as by permitting States to apply the sanction to a single vehicle, then more States would be able to comply with the requirements of Section 164.

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RESPONSES BY RICARDO MARTINEZ TO ADDITIONAL QUESTIONS FROM  
SENATOR VOINOVICH

*Question 1.* During consideration of TEA-21 last year, amendments were added to provide for exemptions from Federal truck size and weight limitations. It would be my expectation that States and industries will continue to push for exemptions from the Federal limits. Will the Administration continue to actively oppose exemptions from truck size and weight limits set by Congress?

Response. This question concerns matters under the jurisdiction of the Federal Highway Administration and, therefore, has been referred to Administrator Wykle for a response.

*Question 2.* Included in TEA-21 was an incentive grant program to encourage States to adopt the .08 standard in their States. Could you describe the status of this grant program and the outlook for additional States qualifying for funds under the program?

Response. TEA-21 authorized \$500 million over 6 years, beginning in fiscal year 1998, for incentive grants to States that enact and enforce laws that make operating a motor vehicle with a blood alcohol concentration (BAC) of 0.08 or greater a *per se* offense of driving while intoxicated. To be eligible for these grant funds, a State's law must have been enacted and become effective. States may use the funds for any eligible Title 23 project (which may include construction projects).

In fiscal year 1998, a total of \$49 million was distributed to 15 States that had enacted and were enforcing 0.08 *per se* laws. The States were Alabama, California, Florida, Hawaii, Idaho, Illinois, Kansas, Maine, New Hampshire, New Mexico, North Carolina, Oregon, Utah, Vermont and Virginia.

At the time that the Federal legislation (Section 163) was enacted (and the fiscal year 1998 funds were distributed), Washington State also had enacted a 0.08 *per se* law, but the law was not yet in effect. It became effective in January 1999. The State of Washington will be considered for a grant in fiscal year 1999.

Since the enactment of Section 163, the District of Columbia has also passed 0.08 legislation and, we are aware that proposed 0.08 legislation is (or has been) under consideration in other States this year, as well, including in Maryland, Louisiana and Texas.

Prior to the distribution of funds in fiscal year 1999, the agency will review all 0.08 *per se* laws that have been enacted and gone into effect, to determine which States are eligible for incentive grant funds.

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STATEMENT OF HON. JOAN BRAY, NATIONAL CONFERENCE OF STATE LEGISLATURES

Mr. Chairman and Members of the Subcommittee. My name is Joan Bray. I am a State representative from the State of Missouri. In the Missouri House of Representatives, I serve as the Chair of the Ways and Means Committee. Today, I appear before you representing the National Conference of State Legislatures (NCSL). I am currently serving as the Chair of NCSL's Energy and Transportation Committee.

NCSL represents the nation's 50 State legislatures, its territories and the District of Columbia. We consistently present to the U.S. Congress strongly held positions on the preservation of State authority, protection against unfunded Federal mandates, promotion of fiscal integrity and development and maintenance of workable State-Federal partnerships. During my testimony today, I will focus on the successes of TEA-21 and the concerns that legislators have as we look toward the coming fiscal years. As diverse as State legislators may be, NCSL's transportation policies represent unanimous consensus on issues that are the topic of today's hearing.

NCSL worked very hard with Congress last year for the passage of the Transportation Equity Act for the 21st Century. In passing TEA-21, Congress proved that it believes in the economic importance of the nation's transportation system and that investment in that system is a good investment. Overall, the States are seeing increased funding, which translates into more investment in transportation. *Thank you* for that funding. It *does* make a difference. But it will only *continue* to make



a difference if you don't retreat. Please continue to use transportation trust funds only for transportation projects. Protect the firewalls.

The spirit of TEA-21 is to give States additional flexibility and discretion and to simplify the transportation planning process, while maintaining the balance between the Federal Government and the States. The States unanimously support that vision. And we expect the United States Department of Transportation (USDOT) to implement that vision. For example, the environmental streamlining process was intended to reduce burdens on the States, without eliminating or compromising crucial environmental protections. States such as Kansas, Michigan, Idaho, Montana and Maryland are beginning to implement the environmental streamlining provisions in TEA-21, and we are optimistic that things will become easier and simpler. However, States such as these have *not* yet seen much difference in the process. Even though implementation is not yet complete, we are confident that the USDOT will resolve our doubts and show a desire to take actions in favor of less regulation. If this does not happen, we will have to ask Congress to take corrective measures to ensure the results that you originally intended.

In terms of flexibility, TEA-21 takes a giant step in the right direction. Increased State flexibility with funding from the core highway programs enables a State to use money in the most effective, most efficient way for the citizens of that State. State legislators from all over the country have said that they are already seeing more flexibility under TEA-21. However, there are areas that they would like to see increased flexibility, such as in Surface Transportation Program funds and National Highway System funds for public transit and passenger rail. Additionally, several States, including New Jersey, have concerns with the funding system for demonstration projects. While they are grateful for the authorization of such projects, they believe that the State needs to come up with too much funding early on. There is a specific Federal payout over 6 years: 1st year 11 percent, then 15 percent, 18 percent, 18 percent, 19 percent, 19 percent. The problem is that the State has to find the funding upfront and seek reimbursement over 6 years. This makes it unlikely that the State will choose to implement this kind of project over others that provide more upfront funding.

We will look to you to further do away with unnecessary restrictions on how funding can be used to benefit system users. States are well aware that transportation is comprised of a variety of interconnected modes, providing a variety of transportation services. States continue to need flexibility to make Federal programs suit their needs.

The States are pleased with the actions of the USDOT regarding the distribution of apportioned funds and trust that the discretionary funds will be distributed in a similar expedient and efficient manner. NCSL staff and members have had discussions with the USDOT staff responsible for several discretionary programs under TEA-21, including the Border Crossing and High Priority Corridor Program. Our discussions with those USDOT staff have made us confident that programs such as those will be administered quickly and efficiently, and it is our hope that other discretionary programs, including traffic safety grant programs will follow their lead and operate as efficiently.

States are encouraged by the innovative financing methods in TEA-21. Many States are utilizing their State infrastructure banks (SIBs) for leveraging funds. SIBs allow Missouri to continue using Federal funds for assistance prior to issuing bonds for pre-construction costs and when assistance to projects whose costs are too small to justify a bond issue. Innovative financing methods like the SIBs and those authorized by the Transportation Infrastructure Finance and Innovation Act have the ability to assist States in significant ways. We encourage you to continue these programs, now and in future authorizations.

Most importantly, however, NCSL is concerned about the prescriptive, one-size-fits-all approach Congress and the Administration have taken on issues in the area of traffic safety—more specifically, the open container rule and the repeat offender rule. It is important to note that NCSL and all the States are very much in favor of alcohol-impaired driving countermeasures. However, we believe it should continue to be within a *State's* authority to decide this issue, without the risk of a federally mandated penalty for the decision. States have been very aggressive in adopting drunk driving countermeasures. We oppose the provisions in TEA-21 and the subsequently issued rules that redirect a State's highway funding to an alternate category if the State fails to pass an open container law and also those that sanction the States for failure to pass a repeat offender law. Several States, including Ohio, Minnesota, Maryland and Montana have expressed doubts over the likelihood of legislatures passing such stringent laws and subsequently, the State's ability to enforce such laws, in light of the restrictive regulations issued by NHTSA. NCSL believes that a one-size-fits-all approach is not the best way to tackle the nation's drunk

driving problem. Additionally, sanctioning the States for failure to pass a law is not the optimum way for the Federal Government to conduct matters with the States and a poor way to foster intergovernmental relations.

I represent a constituency that is reliant on efficient, accessible and safe travel for themselves and their goods. Congress has taken a step forward with the passage of TEA-21. This law has many encouraging programs and is finally starting to come close to the funding levels and flexibility necessary to rebuild and maintain our deteriorating infrastructure. The nation's State legislators ask you not to retreat. Keep your commitment to increased funding. Cut back on restrictions that prevent the States from administering safe and efficient roadways and travel. Work with us, not against us, to achieve the goals of a safe and efficient transportation system.

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STATEMENT OF HON. JEAN JACOBSON, COUNTY EXECUTIVE, RACINE COUNTY, WI

Good Morning, Mr. Chairman and members of the subcommittee. I am Jean Jacobson, County Executive in Racine County, Wisconsin. Today, I am here representing the National Association of Counties (NACo). The National Association of Counties is the only national organization representing county government in the United States. Through its membership, urban, suburban and rural counties join together to build effective, responsive county government. The goals of the organization are to: improve county government; serve as the national spokesman for county government; serve as a liaison between the nation's counties and other levels of government; achieve public understanding of the role of counties in the Federal system. I serve as the chair of the transportation and telecommunication steering committee. On behalf of NACo, I want to thank you for inviting me to appear before you on the topic of the Implementation of TEA-21.

Counties had a major stake in the TEA-21 legislation as they own and maintain 1.7 million miles of highways or 43 percent of the total percent of the road mileage in the United States and 219,000 bridges, 45 percent of the total bridges in the nation. NACo was very pleased with the outcome of the TEA-21 legislation. We had four major objectives, all of which were achieved. We wanted more funding for the highway program; guaranteed funding from the Highway Trust; the program structure of ISTEA retained; and more input for local government officials in the planning and project allocation process. Concerning the last point, TEA-21 includes a provision that requires States to implement a process for including rural local government officials in the development of the Statewide Transportation Improvement Program (STIP). NACo fought hard for this provision and, while not putting rural county officials at parity with urban officials, it does recognize that States must now include rural officials in the important process of developing the STIP which in turn determines those projects that may ultimately be funded.

Expectations on the part of county officials were increased with the size of the Highway Program Going to \$175 billion. At NACo we have urged our members to work closely with their Governors, State Departments of Transportation, MPO's and other units of local governments to make sure they get a "fair share" of TEA-21 dollars. At a minimum, counties should expect an adjustment of Federal highway and bridge dollars that reflect the percentage increase their State is receiving under TEA-21. Better, it should reflect the level of responsibility for roads and bridges that counties have in a State and the overall condition of the county system in that State.

Since TEA-21 is only 10 months old and reliable information is hard to come by, NACo does not have a lot of detailed information on how TEA-21 is being implemented. For us the key implementation issue is whether the additional funding is flowing to county government and whether county officials are being included in the planning and project allocation process. However, what NACo has done to prepare for today's testimony is to send out a short survey to members of our transportation and telecommunications steering committee regarding implementation of TEA-21 and to talk with associations of counties from States with members on this subcommittee. We received surveys back from 29 States and feedback from 7 State Associations of Counties.

In Racine County, where I have been an elected official for over 18 years, transportation is a big-ticket item in our county budget. Our public works department has a budget in excess of \$9 million and is responsible for 400 lane miles of county roads. We have a good relationship with the State born out of necessity since Racine County maintains over 500 miles of State roads, including 72 lane miles of interstate highways. Yes, in Wisconsin, counties maintain the Interstate System. Under TEA-21 Racine County has done well in the Surface Transportation Program and the Enhancement Program Setaside. This is in part due to the high quality of the

MPO to which we belong—the Southeastern Wisconsin Regional Planning Commission. We have also received additional funds because a county trunk highway is on the National Highway System. For rural counties in Wisconsin, my impression at this time is they are receiving more money under TEA-21 because of the overall increase in Federal funds to Wisconsin, but their actual percentage of the pie has not gone up.

In Ohio, Mr. Chairman, counties continue to do well under TEA-21. I trust that has something to do with the immediate past Governor being a former county official who had a county engineer as his director of the State Department of Transportation. I am told that under TEA-21, counties share of the STP Program and bridge program have increased by 26 percent. It is obvious in Ohio that elected county officials and county engineers, also elected, have a good relationship with the State.

In Montana, TEA-21 has brought good news for county government. Surface Transportation Program funding is up 60 percent for counties and Bridge Program Funding is expected to increase. While this does relate to increased funding for Montana, I am told that the Montana Department of Transportation is involving and consulting with county officials to a much greater extent. One reason for this is the aforementioned provision in TEA-21 that requires State DOTs to provide for greater involvement of elected rural local officials in the Statewide Transportation Improvement Program. As I understand it, in Montana a new rural planning process will be implemented shortly.

Let me briefly touch on what we have heard from the other States represented on this subcommittee. In Virginia, only two counties, Henrico and Arlington, have road responsibility and our sources tell us that it is too early to determine the impact of TEA-21 on these counties. Missouri counties expect ultimately to get more funds, but are currently engaged in a battle with the State DOT over bridge funding. Missouri has a substantial number of deficit bridges and counties have depended on the Federal Bridge Program to assist with the high expense of reducing this backlog. Missouri counties are also concerned that there is no planning process in place to obtain input from rural elected officials. In Oklahoma, the expectation is that urban counties will benefit from increased funding in TEA-21 and rural counties will not. There is no rural planning process in Oklahoma. In Wyoming, the State association of counties reports that it is too early to say regarding the effect of TEA-21, though the expectation is for no additional funds. No rural planning process is in place. In New York State, an additional \$200 million has been provided for addressing deficient local bridges, though no extra money for secondary roads is provided through the STP Program. Nevada counties are benefiting from TEA-21 with more funding for both urban and rural counties. Florida has a similar situation, though the urban counties expect to do somewhat better than their rural counterparts. Less funding for rural counties is explained by the fact that rural counties have no counterpart to the MPO's. In New Hampshire there are no county roads and in Connecticut and Rhode Island no county governments.

The responses NACo received from surveys completed by county officials in other States varied a great deal, but I will try to put them into several categories.

Respondents from 9 States replied "yes" to the question of whether they felt counties were getting their "fair share" of TEA-21 funds. These included Minnesota, Oregon, Illinois, Kansas, Pennsylvania, Texas, Oklahoma, Florida and Montana. Most of these respondents answered either more or substantially more when asked whether they were getting more Surface Transportation Program and/or Bridge Program funding. What each of the respondents also had in common, whether from an urban or rural county, was either a MPO or a rural area planning process. With an inclusive planning process in place, counties both receive more TEA-21 funding and have a higher satisfaction level with the program. Additionally, even urban counties that did not answer in the positive regarding the "fair share" question, did answer "yes" to the question concerning satisfaction with how the MPO process works in their region.

In some States, such as Georgia and Arkansas, our respondents said it was too early in the process to tell how counties benefit from TEA-21.

Some counties experienced increases in both the STP and bridge program, though the increase was generally viewed as insufficient given the overall increase in TEA-21 funding. This would include Alabama, Iowa, Mississippi, and Michigan. In a number of States, to the question asked about the STP and the bridge programs, our respondents said that one program would get more TEA-21 funds, but not the other. This included California, Louisiana, Nebraska, and New Jersey.

Finally, there are a number of States where our county respondents felt they were not going to be receiving any increased highway funding in TEA-21. This included Kentucky, Tennessee, New Mexico and Rural Counties in Maryland. The comments from these respondents can be generally summarized as the State not believing it

has to share any TEA-21 money with the counties and demonstrates no interest in consulting with them regarding the programming of these funds.

Before I conclude my testimony, let me add a few final comments. Our survey is a snap shot of the effects of a new piece of legislation. However, I think there are some results that will stand up to scrutiny. The most important fact is that where there is a planning process in place that includes local officials, whether urban or rural, counties receive more benefits from TEA-21 and are more satisfied with the program. Because the MPO process is required in urban areas, generally urban counties are more satisfied with TEA-21 than rural counties. However, if a State has a process that includes rural officials, the satisfaction level is similar to urban areas. Finally, where States have not instituted a consultation or planning process for rural counties, the counties are generally not receiving much in the way of increases in TEA-21 funds, if any.

The Federal Highway Administration (FHWA) is in the process of developing a regulation to implement the provision I mentioned at the beginning of my testimony that provides for an enhanced consultation process for rural or nonmetropolitan local government officials. NACo is working with FHWA on this regulation. County officials expect this regulation will result in nudging States to engage county officials where such cooperation does not currently exist.

NACo believes TEA-21 is a very good piece of legislation and appreciates very much the contributions made to this major legislation by members of this subcommittee. To Senator Voinovich, we extend our thanks for holding this very important hearing and look forward to working with you and your subcommittee in the future. I would be happy to answer any questions the members of the subcommittee may have.

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STATEMENT OF HON. KENNETH L. BARR, MAYOR, FORT WORTH, TX, ON BEHALF OF  
THE UNITED STATES CONFERENCE OF MAYORS

Mr. Chairman and Members of the Subcommittee, I am Ken Barr, Mayor of Fort Worth, Texas.

I appear today on behalf of The U.S. Conference of Mayors where I serve as Vice Chair of the organization's Transportation and Communications Committee. The Conference of Mayors represents more than 1,050 cities with a population of more than 30,000.

Mr. Chairman, I want to thank you and other Members of this panel for holding these hearings today, as we approach the first anniversary of the enactment of the "Transportation Equity Act for the 21st Century" or TEA-21.

OVERVIEW

When Fort Wayne Mayor Paul Helmke, the Conference's Immediate Past President, testified before the full committee last month, his statement highlighted a number of issues pertaining to implementation of TEA-21. I speak to these issues and others in more detail in my testimony.

As a starting point, I want to emphasize a statement by Mayor Helmke, which captures the Conference's broader view on TEA-21. He said, "TEA-21 certainly provides the tools and the laboratory, but it doesn't guarantee success. This is up to local-elected officials working with the Governors and State transportation officials to use the tools you have provided." In my region, our metropolitan planning organization has greatly facilitated this partnership.

Mr. Chairman, we commend this committee, and the work by others in Congress and the Administration, for providing us with the opportunity under TEA-21 for success in meeting the challenges before us in surface transportation.

This statement is lengthy, because we try to provide some context for our views on where we are today with the implementation of TEA-21. Many of the issues we identify in this statement are largely technical or fine-tuning corrections, to make the TEA-21 partnership more successful. Quite frankly, some of the nuances of highway financing are somewhat complicated and require explanation. This statement should not convey the impression that mayors are unhappy with TEA-21. On the contrary, the nation's mayors, and so many others, worked very hard to preserve the ISTEA partnership framework and build upon it, as we believe this committee and the Congress did in enacting TEA-21. Mr. Chairman, the mayors strongly support TEA-21.

Specifically, in my statement this morning, I share the results of a recent Conference survey on how local communities are progressing under TEA-21. I also provide some new information to guide the committee's efforts in shaping Federal sur-

face transportation policy. Throughout the statement, I provide recommendations on administrative actions and suggest ideas for adjustments to current law.

#### MAYORS' VIEWS OF TEA-21 IMPLEMENTATION

Mr. Chairman, I want to summarize the results of our recent mayors' survey on TEA-21. To prepare for this hearing, the Conference surveyed a small group of mayors, principally those serving on the Conference's Transportation Committee, to solicit their general views on how the new law is working.

We asked several questions of the mayors to gather their initial impressions of how the Act was being implemented. Let me provide a quick review of the responses from 40 mayors who completed the survey.

On the issue of responsiveness of our State partners, we found that 70 percent of the respondents indicated that their Governors or State transportation officials had contacted them, since TEA-21 was enacted, about new funding available to their projects. We inquired if the mayor had been asked to participate in any State process to help decide funding priorities for TEA-21 dollars within the state, and only 40 percent responded affirmatively.

Nearly one-half of the mayors indicated the State committed additional funding or had developed plans to commit additional funds to local projects of particular priority to the city or region. When we asked if their metropolitan planning organizations (MPOs) had set any targets for fair share funding under TEA-21, one-half of the respondents said yes.

To test out the general survey responses with specific examples of TEA-21 program categories, the mayors were asked to indicate if they found it easier, harder or the same in securing funding for key transportation needs. The categories of funding were: bridge repair (Bridge Program); community-building (Enhancements); congestion/clean air (CMAQ Program); highway construction (STP/flex funds); safety (STP safety set-aside); and transit (STP, CMAQ and flexible funds). The responses assigned to each category were fairly consistent, with the low range of 65 percent (community-building and congestion/clean air) to a high of 80 percent (safety) of mayors expressing the view that funding had remained the same.

When asked to indicate *one* top surface transportation priority in their city or region, the mayors' top three responses were System Preservation at 35 percent, Congestion Relief at 20 percent and New Rail Projects at 15 percent. The remaining 30 percent of the responses included alternative transportation, new freeways, transportation access to brownfield sites, safety, Interstate expansion, bridge repair and major road widening. Mayors were asked to write the response, rather than choosing from a list.

#### BETTER INFORMATION IS KEY TO SUCCESS OF TEA-21

Mr. Chairman, one quick and inexpensive way to increase our success rate and achieve better outcomes for our communities and citizens under TEA-21 is by modernizing our information-sharing capabilities. For a relatively modest investment of time and effort, we could dramatically upgrade our 'TEA-21 information infrastructure' and secure more return for the taxpayer and our communities.

We know that a modern "information infrastructure" helps all of us—public and private decisionmakers at every level of government—extract the full benefits from available TEA-21 dollars. Our nation is consumed by the "Information Age," the Internet and its vast potential. We are implementing multi-modal Intelligent Transportation Systems into our regional infrastructure; yet, in transportation investment accounting, our tools are antiquated and need to be updated.

Nobody, except a handful of Federal and State transportation officials, understands how Federal highway dollars move in and around the system.

The lack of user-friendly information about the flow of transportation resources under TEA-21 is the "Achilles' heel" of successful implementation of the new law. And, when I say information, I mean: (1) what funds are available and for what purposes; and (2) where these funds are being programmed or will be programmed over the life of TEA-21.

This is a 'right to know' process about how we are or soon will be deploying the taxpayers' money.

Mr. Chairman, as a former Governor, you can appreciate State concerns about another burden of reporting, but quite frankly, this view reflects only a small part of the equation. The real issue is about making the very best decisions, in a meaningful and healthy partnership structure among Federal, state, regional and local officials with the public.

## INFORMATION GAPS THREATEN TEA-21 DECISIONMAKING

Mr. Chairman, to illustrate why this information is so vital to local-elected officials and others, I offer the following detailed examples.

*Reporting*

To prepare for this hearing, the Conference of Mayors requested and then reviewed the Section 104(j) Report, as provided to this committee pursuant to TEA-21.

This report is intended to deliver annual updates to the Congress on the use of funds under the new Act. Specifically, the law calls for an annual accounting of obligations by State and substate areas, along with further detail by program category and type of improvement. I have attached a copy of this report to my testimony.

As an individual at the local level who has been involved in transportation issues for some time, and in my capacity as a leader among local officials on this subject, I don't understand what this report tells the public.

Local officials and the public can't immerse themselves in the intricate details of this type of reporting. It seems to be a collection of computer runs, devoid of any analysis or context.

Mr. Chairman, there has to be a higher standard for informing us and the public on what the states—as the lead partner in the highway program area—did with more than \$20 billion in Federal highway funds during the last fiscal year, 7 years after ISTEA was enacted.

Let me turn to a local example from the ISTEA period to make the point more clearly. It is about air quality and Congestion Mitigation and Air Quality (CMAQ) funding.

Congress had wisely provided States with investment dollars for clean air needs in local areas, through ISTEA's CMAQ program. Here Congress provided the tools, both spending authority and actual obligation authority, to address a national problem that affects my region and many others throughout the U.S. While serving as a member of the MPO, we funded a whole set of air quality projects, and we did it with an open accounting system in full disclosure to the public.

To preserve State flexibility, Congress chose not to suballocate the funds to local areas as the STP program does, leaving decisions to the states on how much actual money would be obligated and where funds would be provided to projects in "non-attainment" and "maintenance" areas within the state.

During ISTEA, the Fort Worth-Dallas region was redesignated under the Clean Air Act, from moderate non-attainment to serious non-attainment for ozone. At the same time and in other places, several larger metro areas were being reclassified into more serious categories. Here in Washington, U.S. EPA was finalizing new clean air rules, setting more restrictive standards for ozone and particulate matter.

It was not until the ISTEA period was ending that I learned the State of Texas had unused spending authority for CMAQ. It turns out that, over the 6-year life of the Act, we now know, according to U.S. DOT, that the State of Texas had more than \$213 million in unobligated apportionments for CMAQ projects in my area and others with clean air problems.

Mr. Chairman, a theme for the Conference of Mayors over the past 2 years has been the importance of city/county metro areas in driving the U.S. economy. But, there are side effects that come with the incredible performance of these metro economic engines, such as threats to air quality. In my region, where nearly 2 percent of the nation's population resides, we are challenged by air quality problems. This explains our intense interest in the subject of CMAQ funding.

The story does not end there. A subsequent U.S. DOT computer run on the ISTEA period shows our experience is not unique. Nationwide, the CMAQ program had the lowest obligation rate (81.2 percent) of the five core highway programs under ISTEA.

The fact that, collectively, we, and I mean principally the states, left more than \$1 billion in spending authority (i.e. unused CMAQ apportionments) for clean air on the table during the ISTEA period, has largely gone unnoticed.

Turning to the Section 104(j) report, which I mentioned before, we now have information on the first year of experience under TEA-21. Again, like the ISTEA period, the CMAQ program had the lowest obligation rate of the five core highway program categories. What is alarming is the current rate of obligation of CMAQ funding is well below the ISTEA average. In fact, the obligation rate for the CMAQ program is about 40 percent lower than the ISTEA average. Unfortunately, this finding is not readily apparent and is based on further analysis.

Why can't these projects keep pace with the rate of progress States make on their traditional projects? And, why can't we have this information delivered in a timely

manner, not at the end of the Act's funding cycle, and in ways that help inform the public?

Better information on the dollars is just part of the equation. Let me provide another example based in Virginia.

The Commonwealth of Virginia uses Federal system classifications—"primary," "secondary" and "urban"—which, as you know, were eliminated in 1991 when ISTEA was enacted to show spending patterns with the State. It is very difficult for local officials and the public to follow the progress of spending provided under TEA-21 with system classifications that no longer exist under Federal law.

#### *Fair Share*

The ISTEA period ended on September 30, 1997. Today, as we discuss implementation of the new law, key information has not been reported on what happened under ISTEA, such as where the dollars went within the States.

Mr. Chairman, the Conference and other local officials began a campaign after the enactment of TEA-21 to make sure that all of the focus on funding equity didn't stop at the State lines. And, that the principles of funding equity should be extended, in reasonable ways, to substate areas and communities. We call this our "Fair Share Campaign." Our members and the public need better information about what happened with prior funds to make our case for fairness in future State funding allocations.

To help us understand the flow of dollars among areas within States, the Conference asked the Surface Transportation Policy Project (STPP) to prepare a report on the ISTEA period since no official report from U.S. DOT or the States was expected.

As a result, we are doing our part to help inform these discussions, and at least, provide local officials with some baseline to gauge their work with their States in securing a "fair share" of these resources.

Today, I am pleased to provide this committee with an initial report on the distribution of funds to the nation's urbanized areas during the ISTEA period. It was prepared for the Conference by STPP, using data provided by States to U.S. DOT.

Mr. Chairman, it provides the only place-based accounting, on a national level, of where the more than \$100 billion in Federal highway dollars under ISTEA were invested.

Let me emphasize that we recognize the limitations of this information. However, we view this report as a useful tool in helping mayors seek their own accounting of how Federal transportation dollars were invested in their city and throughout their region.

We provide this report to local officials to aid them in securing TEA-21 investment for their areas. And, we encourage them to use the information to bolster their own requests to their State transportation agencies for a full accounting of how ISTEA dollars were spent in their area.

With the growing public outcry for better transportation decisions, this should be the last time a non-profit, public interest coalition has to step in and help us understand where and how we have used Federal resources. It was necessary at this juncture, absent efforts by the U.S. Department of Transportation and/or State agencies making such information available about the ISTEA period.

Mr. Chairman, the Conference would strongly support reports like this from the U.S. DOT and our State transportation agency partners. Such information helps all of us understand how Federal transportation dollars are being invested. Let me share one last case study using the Fort Worth-Dallas metro area as one example.

This STPP report estimates what each urbanized area of the country received on its investment of Federal gas taxes relative to highway spending.

It is estimated that the Fort Worth-Dallas metropolitan area realized a return on its gas taxes of about 55 cents on a dollar. Of the estimated Federal gas tax payments of \$2.25 billion from taxpayers in our region, we received about \$1.23 billion in highway funding under ISTEA. This rate of return is about 25 percent lower than what the State of Texas, overall, received during the ISTEA period. These numbers concerns me and other mayors, and we have no way to find out if this information is correct. Moreover, we did not have this information going into the TEA-21 discussion.

Now that Texas' funding share of the new law, both in terms of percentage return and funding levels, has risen appreciably under TEA-21, our region is better positioned to advance our case for 'fair share' funding. Our MPO has created partnership programs with TxDOT which have helped considerably. We look forward to fine-tuning this partnership with your help.

However, it is extremely difficult to make the case for more funding if there is no baseline upon which to measure equity.

Finally, while this information may be explained differently, it is important to note that STPP used U.S. DOT data supplied by State agencies. It seems there is the capacity for place-based funding reporting using existing data sources, and we would like to see it assembled by U.S. DOT in cooperation with State agencies.

During the TEA-21 debate, I worked in concert with other officials in my region and with my State, as you did Mr. Chairman as then-Governor of Ohio, to seek a more equitable distribution of Federal resources among donor States. I do not want to lose a fair chance to argue for these resources for my city and region, due to lapses in our information systems.

We are here today to talk about implementing TEA-21 in the next millennium with the investment of these resources; yet, it seems our current information systems are operating in a manner that defies broader public scrutiny and understanding.

Mr. Chairman, TEA-21 is the largest single public works investment program in the nation's history. We need to retool our information infrastructure so it is up to the task of effectively deploying the more than \$150 billion in taxpayer dollars, funds which are reserved in TEA-21 for the core highway programs.

As we move forward, I offer some specific suggestions.

#### CLOSING THE INFORMATION GAPS

My testimony has discussed some of the limitations in our information-sharing among partners in the intergovernmental system and the public, examples which are generally drawn from the ISTEA period.

I applaud this committee for a number of changes it made during action on TEA-21 to improve the free flow of information, helping to end some of the mystery about deployment of Federal highway dollars.

#### *Report to Congress—Section 104(j) Report*

Mr. Chairman, with some additional efforts and an eye to the public use of this information, the Section 104(j) report can be a very useful tool in aiding policymakers and the public in tracking how TEA-21 dollars are being deployed.

I attached a copy of the first report to illustrate the point that a compendium of tables, devoid of context, is not particularly useful information to local officials and the public.

Tables alone do not convey useful information to the reader. Obligated funds by category, without reference to available spending authority (i.e. apportioned funds for the category for the current fiscal year or acknowledgement of carry-forward apportionment balances from prior years), do not allow a reader to determine what the data means.

The report does not offer insight into flexing of funds among categories, which is an area that local officials have also been concerned about. If spending authority, at the state's discretion, is shifted from one core program category to another, such as to the Surface Transportation Program (STP), local officials want to know and have the opportunity to see some portion of these "flexed funds" shared with their MPOs and local governments and for Enhancement or Safety projects in their areas. As you know, when funds are provided to the STP program in the first instance, local areas through their MPOs and the STP set-asides share in this funding.

The report shows spending by area, clustered by category of area, be it rural, small urban, urbanized or other. Again, the reader doesn't understand how these categories match with local areas and populations within the state. By simply adding population to the tables, we could get some idea of dollar flows on a per capita basis to groupings of jurisdictions.

DOT's data base does track funding into local areas. Yet, this report provides no additional detail below categories of substate areas. As a result, it provides no particular insight or guide for gauging where within the states these funds are being invested.

Accompanying analysis of the obligation rates can begin to compare trends in State programs for purposes of delivering a more complete picture to policymakers.

I emphasized our interest in the CMAQ program. With new air quality standards soon coming on line, the public and affected local areas want to know if progress on air standards is being helped by investment in CMAQ projects or slowed by disinvestment in CMAQ projects.

Mr. Chairman, I encourage you and this committee to work with U.S. DOT to get this report delivered in a manner that better informs the public debate on these matters. While the report may technically comply with the Act, it does not provide a full accounting to the public.

The Congress wisely directed that this report be provided on an annual basis. Here we have an excellent opportunity for the Department to produce more user-



friendly information on the status of TEA-21 funding, serving an audience beyond transportation budget analysts. Since this report series is just starting up, the Conference of Mayors would be pleased to provide any support to the committee in this regard.

#### *Cooperative Revenue Estimates*

TEA-21 also included a provision that directs states to work cooperatively with the metropolitan planning organizations (MPOs) to develop joint forecasts of anticipated funding under TEA-21.

This is a very important provision of the new law, and it places in the law a specific directive that such joint forecasts will be developed. U.S. DOT previously developed a rule under ISTEA addressing cooperative revenue forecasts, but these rules went largely unnoticed by State transportation officials.

Fully implementing this requirement would help create more accountability in Federal highway funding. Mr. Chairman, the leaders of the local government community have written directly to Transportation Secretary Slater on this matter, urging him to include clear directives on this provision in the upcoming DOT planning rules.

I understand that some states have moved aggressively since June 1998 to program significant portions of their funding over the life of TEA-21, making advance decisions on deploying these resources, without complying with this provision of the new law.

This cooperative revenue forecast provision is about making sure that we have a meaningful partnership in surface transportation. Mr. Chairman, in Ohio when you served as Governor, there was an Ohio Futures Forum on Creating a Regional Vision. In these focus groups, the voters told you and other State and local officials that they wanted "simple, basic bookkeeping." An effective, cooperative revenue forecast process is about simple, basic bookkeeping.

Consider that in 1997 local governments, collectively, provided more than \$36 billion for highway investment—a commitment which represent one-third of all highway investment by all governments (i.e. Federal, state, and local). This local tax effort that is equivalent to more than 20 cents per gallon of gasoline. And, that cities and counties own and/or operate about 80 percent of the nation's more than four million miles of roads and streets. Moreover, we own and operate the lion's share of the nation's ports, airports and public transit providers. There is much that is going on in the nation's transportation systems.

In my own region, 55 percent of overall transportation expenditures are from local revenue sources, and we just approved an additional \$300 million in locally-enacted bond funds for surface transportation.

A cooperative revenue forecast is about putting together our local and regional budget for future transportation investments, which are supported by substantial and ongoing local tax effort. These local revenues, nearly all of which is raised from the general taxpayer as opposed to users through gas taxes, are the silent partner in the surface transportation financing equation. However, most people assume that surface transportation investment is only about Federal and State gas taxes.

Having full and timely information about what TEA-21 funds will be available to our region, through Fiscal Year 2003, is about recognizing and respecting the substantial, and increasing crucial, role local governments play in surface transportation investment.

Mr. Chairman, I offer this concern in utmost respect to you as a former Governor, but too often State agencies view TEA-21 as simply State resources. An effective revenue forecast process with the MPOs is about building our investment plans cooperatively, with complete disclosure about where and when TEA-21 resources will be available.

I encourage this committee to give its support to the full implementation of these provisions by the U.S. DOT in its upcoming planning rules. There will be related benefits to the MPOs in satisfying new information requirements included in TEA-21 in that an effective revenue forecast process underpins and facilitates MPO efforts to provide more complete and accurate accounting on their transportation improvement programs (TIPs) and anticipated financing schedules for these projects.

#### *Increasing the Use and Availability of Project Information*

Mr. Chairman, we have now entered a new era of information exchanges, which is driven by new technologies and by a growing public desire for quick and user-friendly information.

I would like to encourage this committee to begin examining ways to deliver more information on transportation generally, and TEA-21 investments specifically, to the public directly, using the new information resources like the Internet and GIS

systems. Such user-friendly platforms are now deployed in many other areas by governments and their specialized agencies as well as by other public and private entities.

Recently, I had an opportunity to see the new platform developed by the U.S. Department of Housing and Urban Development (HUD) to facilitate community decisionmaking and public involvement. HUD uses data, provided by grant recipients, to exhibit how they are using the funds. The data is geo-coded, allowing HUD to assemble and convey to the public very detailed, graphically-displayed information. It is called the "Community 2020" software.

To demonstrate, I have attached a couple of examples of this GIS-based information system. "Community 2020" offers information on the location of HUD-funded projects, combined with Census data and other information, to allow its users to get a more complete picture of what is happening block by block in neighborhoods, communities and regions throughout the country. It helps communities to think more strategically about investments in local projects.

What is missing in this equation is the display of transportation investment information. As a community leader, I can tell you that, for too long, we have underestimated the power and influence of transportation investments on our communities and neighborhoods. This committee's recent hearings on open space and urban growth underscored the importance of transportation investment in shaping urban development patterns. Combining transportation investment data, with other resources, would go a long way in helping public and private investors and the public make better decisions in the use of transportation dollars and other funds.

Mr. Chairman, I would encourage this committee to explore policies, pilot programs and other actions to move transportation data systems forward in ways that take fuller advantage of the many new information technologies.

#### BROADER TEA-21 PROGRAM ISSUES

As this committee begins to consider technical corrections or other adjustments to TEA-21, there are some areas where the mayors would urge changes and further oversight.

Mayor Helmke pointed out our concerns about the gap between apportionments (i.e. authority to spend) and obligation authority (i.e. funds to be obligated to actual projects), an unanticipated development under TEA-21.

The unanticipated gap in Fiscal Year 1999 of nearly 13 percent, or more than \$2.5 billion in excess apportioned funds, means that states are accumulating more spending authority than can be reasonably expected to be obligated over the life of TEA-21.

It is one thing to provide flexibility to shift funds among program categories, it is another to make available excess apportionments available so that key local programs, like CMAQ or Enhancements, might not be funded.

Let me explain further, under ISTEA, the gap between apportioned funds and obligation authority averaged between 7-8 percent, with a smaller program. Against a much larger base of funding, a gap of nearly 13 percent, when combined with unobligated balances from ISTEA, allows states the option of underfunding key programs of interests to their local partners.

Consider that the CMAQ program, according to Section 104(j) report, has an obligation rate in Fiscal Year 1998 of slightly more than 50 percent, as measured against new Fiscal Year 1998 apportionments for CMAQ. This is troubling to local officials struggling with clean air problems, particularly as we await implementation of the new air standards.

To illustrate, in Georgia where the greater Atlanta metropolitan area is in the midst of debate on clean air standards, the State received apportioned spending authority of roughly \$930 million in FY99. This includes a CMAQ apportionment of \$33 million. The State received about \$812 million in FY99 obligation authority. This gap is roughly \$118 million in Fiscal Year 1999, which is about 3½ times the amount of the CMAQ apportionment. The State could simply choose not to fund CMAQ, Enhancements (\$24 million), STP Safety (\$24 million) in FY99, and still not reach balance between apportionments and obligation authority in that year.

Given the need for more priority on clean air, the Conference urges you to look at the concept of proportional obligation for the CMAQ program, as now provided to urbanized areas under the STP program, as one option to improve the flow of funding to CMAQ projects in qualifying areas. And, the extent to which Enhancements and Safety investments appear to be threatened similarly, these program areas should be given consideration for proportional obligation or through another means that provides for commitments to these areas.

Mr. Chairman, another issue we have heard about from mayors and the MPOs is how the Minimum Guarantee Program was structured in TEA-21 and its subsequent effects upon STP accounts for local governments. As a result of how these "equity" funds were allocated, we did not see the suballocated funds to MPOs grow at the same percentage as all funding under TEA-21. We urge the committee to review this issue and look for corrections to address this shortfall in STP funding to MPOs and local governments.

Let me discuss a new and somewhat related issue and that is RABA or Revenue Adjusted Budget Authority. Under TEA-21, additional gas tax receipts, in excess of assumed baseline funding, are distributed directly to the core highway programs. Federal gas taxes are now generating more revenue than was anticipated under TEA-21. As a result, states in the next fiscal year will receive additional obligation authority of about \$1.5 billion, along with an identical amount of new apportionments.

Given existing surpluses of unobligated apportionments already available among the states, it may not be necessary to send the additional apportioned amounts to the states with the new obligation authority. This action would help reduce the gap between apportioned funds and obligation authority to levels closer to what occurred under ISTEA, and promote more balanced investment among the TEA-21 program categories.

Related to this issue is the mayors' continuing desire to see balance in the funding among highways and public transit. We have for some time advocated for the preservation of the historic 80/20 split between the core highway programs and public transit. The Administration in its Fiscal Year 2000 budget has asked Congress to preserve this balance by directing a portion of the RABA funding to public transportation, a proposal that is supported by the mayors. We encourage the committee to examine this request and look for an opportunity to make the technical adjustment to TEA-21 to allow some sharing of excess gas receipts with public transportation needs.

The mayors continue to be concerned that states are not fully exercising the flexibility that the Act provides by funding critical intercity, regional and local rail projects. With the enactment of ISTEA, local decisionmakers identified new rail starts and rail extensions as a priority need in strengthening the performance of surface transportation networks.

With the exception of CMAQ funds which have been "flexed" to transit investment, largely by MPOs, we have not seen states engaged in making funds available to these projects. There are nearly 200 rail and fixed guideway projects all across the country in various stages of development. In communities and regions, both large and small, local leaders see these investments as necessary compliments to our extensive highway and street networks.

In my own region, our MPO flexed \$40 million in CMAQ funds to the Trinity Railway Express, connecting Dallas, DFW International Airport and Fort Worth.

Consider the Washington area where this point comes into focus. At one of the nation's largest interchanges, the Springfield Interchange, an 8-year overhaul of the facility is underway, with State transportation officials urging commuters and others to use public transportation as an alternative. At the same time, the METRO rail system is posting record passengers levels, trying to absorb growing demand for its services. In local markets, our highway and transit systems are interconnected.

I would encourage the committee to examine these issues further, and to look once again and support at making TEA-21 funds eligible for partnering with Amtrak. Mr. Chairman, as you know, the Federal Government matches many investments by State and local governments in areas such as highway, transit and aviation. But it doesn't this same opportunity for Amtrak in the delivery of rail passenger service. It is clear that fixed rail services, be it local or regional service or Amtrak intercity passenger rail, offer substantial opportunities to extract more performance from existing highway networks. These systems provide alternative transportation options to those that can or will use it, freeing up highway capacity for those who can't.

On another issue, Mr. Chairman, I want to note that TEA-21 directs the U.S. General Accounting Office (GAO) to undertake a study on transportation system coordination for the delivery of human services transportation. This is a particularly important issue for us at the State and local levels as we look for ways to improve efficiencies in the delivery of these services. The Conference in its statements on TEA-21 has discussed the challenges to transit providers in delivering effective complimentary paratransit services pursuant to the Americans with Disabilities Act.

We encourage you to look at this report and consider ways to support key findings to improve coordination in human services transportation, in partnership with local and State transit systems.

In a related area, under TEA-21, we have some new flexibility to use STP funds, and along with the Enhancements program, to improve pedestrian access on our road and street networks, which is critical in mainstreaming persons with disabilities to fixed route services. Again, our issue here is whether these resources will be made available by states when developing their priorities. Paratransit services are expensive and could be helped considerably by having states make resources available to communities for improved access to existing, fixed route services.

#### NEW IDEAS INFLUENCING TEA-21 DECISIONS

Mr. Chairman, I want to call your attention to several emerging issues that have considerable bearing on the committee's review of TEA-21 implementation.

First, let me talk about the Conference's work on developing new information on the role of city/county metro economies in fueling U.S. economic growth. Last year, we released data, prepared by Standard & Poor's DRI, publishing the first-ever Gross Metropolitan Product (GMP) figures for the nation's city/county metro areas.

In the study, we found that 47 of the top 100 economies in the world are U.S. city/county metro areas. Additionally, the combined economic output of the nation's top 10 metro economies exceeds the output of 30 states.

Mr. Chairman, the implications of this information for Federal and State policymakers are far-reaching. For example, the study showed that the output of the Fort Worth/Dallas metropolitan area—\$166.85 billion in 1997—is only surpassed by 14 states. Our region's output already exceeds Denmark, and is slightly less than Hong Kong.

When I talk about transportation policy decisions in my own State, I describe how our region produced 29 percent of the state's output, with only 24 percent of the state's population in 1997. In short, this report tells public and private decisionmakers that, measured on a per capita basis, each of our region's 4.7 million are producing at a rate which is about 20 percent higher than the state's average.

Mr. Chairman, when you consider the very impressive economic performance of my region, and the importance of transportation investment in fueling our nation's metro economic engines and their contribution to U.S. economic growth, you can understand why it is so important that we fully disclose where TEA-21 dollars are invested. As regional leaders, we work hard to make strategic investments to stimulate economic growth, and this information is vital to our decisionmaking.

Last fall, the Conference requested DRI to prepare another report on the role of transportation infrastructure and economic growth. Mr. Chairman, I have included a description of that report with my testimony. The findings of this report further amplify the role of U.S. city/county metro areas in fueling U.S. economic growth.

The Conference would be pleased to work with you and this committee to examine the implications of this new information in setting future Federal transportation policy.

Mr. Chairman, I also want to underscore the Conference's continuing interest in promoting the cleanup and redevelopment of brownfields. Mayor Helmke talked extensively about this issue during his testimony last month.

I know that in your capacity as Governor of Ohio, you were one of the national leaders in the brownfields movement. We applaud you for your efforts in this area.

Later this month, the Conference will be releasing its Second National Survey on Brownfields. In our work, we continue to hear about the challenges of getting transportation funding to support brownfields' redevelopment.

Mr. Chairman, I would encourage you to look for additional ways to help ensure that TEA-21 resources are available to help communities redevelop brownfields. For example, it would be helpful to simply mainstream this through a blanket eligibility under Title 23, as the committee treated eligibility for Intelligent Transportation System (ITS) investments under TEA-21.

Finally, Mr. Chairman, I want to recognize Senators Chafee and Moynihan and others on the committee for their work to get the tax code to advance what is known as "qualified transportation fringe benefits" in TEA-21. These are employer-provided commuter benefits (transit passes, vanpools, and parking) for costs incurred by commuters. With these new IRS tax code changes that are now pre-tax income, employers and employees are in a win/win situation.

Mr. Chairman, these are powerful tax tools to assist with congestion, air quality needs and improved mobility in our communities and regions. We don't believe that the U.S. DOT has done enough to support the greater utilization of this incentive.

#### CLOSING COMMENTS

Mr. Chairman, let me make some closing comments.

The issues I have discussed today affect all of our cities. Our cities as neighborhoods—protecting quality of life—and our cities as regions—competing in a world economy—transportation funds are the tools to carry out our responsibilities within the regional context. In our region, adequate funding and air quality constraints continue to hamper our potential success. You have the opportunity to permit us to respond better to both our responsibility to enhance quality of life and increase competitiveness in a world economy.

In my statement, I have provided numerous recommendations and suggestions to help us achieve these outcomes, through follow-up work by this committee and with U.S. DOT. I want to underscore that the nation's mayors believe in the ISTEA partnership, and want to build upon this success under TEA-21. Mr. Chairman, as you move forward on these issues, you can count on the mayors' active participation and support. Thank you for this opportunity to present our views.

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STATEMENT OF HON. ROBERT BARTLETT, MAYOR, MONROVIA, CA, ON BEHALF OF THE  
NATIONAL LEAGUE OF CITIES

Mr. Chairman and Members of the Subcommittee, the National League of Cities is pleased to have this opportunity to share our views on the implementation of the Transportation Efficiency Act for the 21st Century (TEA-21). My name is Robert Bartlett and I am the Mayor of Monrovia, California and the Chairman of NLC's Steering Committee on Transportation and Infrastructure Systems. In addition to my job as Mayor, I serve as a member of the Southern California Association of Governments, which is the regional council making the decisions on what to do with the TEA-21 money in the Southern California area.

The National League of Cities represents 135,000 mayors and city council members from cities and towns across the country that range in population from the nation's largest cities of Los Angeles and New York to the smallest towns. Over 80 percent of NLC's members are considered small towns, with populations under 20,000. At this time, may I ask that the full statement of my testimony be submitted to the record for this hearing?

The National League of Cities is especially grateful to the Senate for passing TEA-21 legislation. This legislation will assist our cities and towns in preparing our infrastructure systems for the 21st Century. TEA-21 represents a continued partnership of Federal, State and local governments seeking the goal of modernization of infrastructure, which is critical to sustaining our cities and towns and the commerce of the nation. TEA-21 has continued the direct decisionmaking role that local governments have in determining TEA-21 projects and allowed programs to be flexible for local needs. Additionally, TEA-21 has created a national transportation policy framework that includes Federal money for intermodal transportation including mass transit.

In my testimony today I will present some concerns that have already surfaced, but at this point in TEA-21's implementation it is still very early to fully report on how implementation is going and what long-term concerns local governments have. We welcome the opportunity to develop a partnership with you, Mr. Chairman, and the members of the Subcommittee, to address these issues as they surface over the course of the year. I would respectfully ask that the State and local government associations be able to report any other concerns in 6 months, as more implementation will have occurred at that time.

The leaders of our cities and towns have just begun to see the direct impacts of TEA-21's implementation. TEA-21 is fully investing new and future transportation dollars at guaranteed levels that will ensure that the highway and transit funds will be spent at specific levels, and not spent on other unrelated programs and projects. The thirty percent of Federal funding that is guaranteed for transportation infrastructure funding will prevent local governments from having to raise taxes or cut services since the funding is now guaranteed by the "firewall." This enables our cities and towns to focus on other needs within our communities that are vital to the infrastructure of our constituents' lives like police and fire protection.

In my own region of Southern California, innovative projects are being considered for funding as a result of TEA-21's passage. The Southern California Association of Governments (SCAG) is seeking \$2 million for a Magnetic Levitation (MagLev) Transportation Technology Deployment. Funding would assist in conducting an extensive review of the feasibility of MagLev technology in an urban, intra-regional setting. SCAG will be focusing on a corridor between Los Angeles International Airport and March Air Force Base, with intermediate stops at Union Station in Los Angeles and Ontario (California) International Airport. The proposal is a unique opportunity to link airport travel and goods movement demand with daily urban

transportation needs, thus addressing multiple issues of serious concerns within the Greater Los Angeles metropolitan region.

While TEA-21 is working within our communities, we still have some concerns that could be addressed or clarified. Equity is an important issue for our nation's cities and towns. As much TEA-21 funding as possible should go directly to local elected officials to decide how to use this money. Rural areas should not be pitted against urban areas. All local leaders should be playing a determining role in deciding how the money will be spent.

#### GETTING THE FUNDING TO CITIES AND TOWNS

There was a lot of initial excitement about the additional funding levels that TEA-21 provided, but that excitement has been tempered by the lower appropriation levels in the Federal budget and the use of the first year's additional dollars by State governments to fund State projects and projects overruns.

In some of our cities, particularly those whose states control the flow of TEA-21 funding to local governments through Metropolitan Planning Organizations (MPO's), the MPO's for large urban areas are losing portions of their funding. Our cities have let us know that is the case in Connecticut, Florida, and Indiana. Apparently, in these states, when TEA-21 money has been allocated, the money has been given to the State to hold until the MPO has made a decision about how to spend the money. The city of Hartford, who participates in the Connecticut Capital Regional Council of Governments for transportation and infrastructure decisionmaking, reported to us that a portion of the TEA-21 funds slated for the Hartford region was siphoned out by the state. We need assurance that cities and towns are able to get the money that is specifically allocated for their use. TEA-21 is aimed at local decisionmaking, so we need to prevent these funds from being intentionally diverted so that a State may not siphon off funds supposed to be used for cities.

Metropolitan Planning Organizations also pose another challenge to cities and towns, especially smaller cities and towns. The process for competing for Federal funds through the local metropolitan planning organization is very difficult. It is difficult for a city to duplicate the scoring process. A project may have significant local importance, however, when modeled on a regional basis it cannot compete. The variables used by the State departments of transportation and metropolitan planning agencies to determine allocation of funding are usually based on vehicle miles of travel and population. The number of accidents per vehicle mile of travel would provide additional documentation of the transportation need in the community. In addition, this process does not assist cities in funding "one-time very expensive" transportation projects. It would be helpful if there was a way that flexible funding could be accessed to address special one time projects and smaller city needs.

One of the merits that NLC supported when TEA-21 was being considered was that TEA-21 would provide a more open and expansive process aimed at involving more people in the process of deciding how the Federal transportation dollars are to be spent in each State and region. While the concept is good, it has been difficult and impractical to implement based on the fact that the public's transportation needs greatly exceed the available funding from the Federal, State, and local levels. Sometimes the objectivity in project funding decisionmaking is replaced with more subjective issues of fairness and equity. We are left facing difficult decisions. Is it fair that State departments of transportation or the largest cities and counties get the majority of the Federal dollars every year? Shouldn't we spread the money around to a few more governmental units, even if the benefit is not realized by the greatest number of people? While local leaders are left to make the decisions, they often blame the Federal Government for not providing enough funding. Better guidance and commitment to projects by Congress would be even more helpful to local leaders faced with tough decisions.

Streamlining the process for obtaining funding is important to our nation's cities and towns. The complexity and project requirements of TEA-21 adds a dollar cost to project development. In Rochester, Minnesota, the city felt forced to hire an engineering consulting firm just to manage the TEA-21 process, but that means extra money for the city that could be poured into the project, instead of a consultant's fees. In Rochester, Minnesota, Federal funding has meant a cost of at least 10 percent more to plan, design, and construct a highway under the Federal funding guidelines.

Another problem that we have heard is that small and large cities alike are having trouble obtaining the local match for project implementation. TEA-21 does incorporate dollars to assist with the operations and maintenance for Intelligent Transportation Systems (ITS), but cities like Dallas, Texas are having trouble implementing the project because of the additional manpower that is necessary.

As our cities and suburban regions grow, land-use and sprawl become increasingly more of an issue for city leaders to address. NLC supports placing a greater focus on the relationship between land use and transportation planning. The first step has been made with the new grant program, Transportation and Community and System Preservation Pilot Program, but land-use must be a part of any future TEA-21 consideration. Cities can no longer continue to add more roadway capacity because the demand will never be met. Now and in the future, land use changes will have to address the transportation problems in a community. Smarter and more efficient ways to commute and utilize our roads and transit system are increasingly a facet of addressing growth.

Cities are on the cutting edge of developing ways to address this issue. It is as simple as one of the projects that Alliance, Nebraska (population 9,716) is planning with its TEA-21 funds. Alliance is planning a pedestrian walkway through the parks system that can be used to transport people by bicycle or foot to their jobs, the shopping areas, and their neighbors.

Highway Safety Tea-21 provides approximately \$2 billion for highway safety programs and provides several other incentives to keep our nation's highways safe. I am please to report to you that NLC's Transportation and Infrastructure Services Policy Committee will be examining NLC's policy on highway safety, including hazardous materials transport over the course of this year. I am sure that the Steering Committee will have additional recommendations for TEA-21 to incorporate after their studies are complete. As, our nation becomes more dependent on the transport of goods from place to place in this global economy, we need to make sure that our highways are safe and our local emergency personnel are equipped, prepared, and trained to deal with accidents involving hazardous materials.

Welfare to Work Cities are the economic engines of the States. Projects that are funded with TEA-21 dollars can help local economies with jobs, economic development, and enhancing the quality of life in cities. An enormous number of dollars are being pumped into local economies and that is helping to address the problem of geographic displacement of jobs and the impact that this has on unemployment, welfare recipients, and low-income earners.

The Job Access and Reverse Commute Program that was included in TEA-21 guaranteed \$75 million in funding in a 50 percent matching grant program to provide transportation assistance to people to get to the jobs. A disproportionate number of low income, unemployed and underemployed persons live in large urban areas, while a large number of jobs, including TEA-21 projects are centralized in suburbs and rural areas. At least 2/3 of new jobs are in the outer suburbs. This grant helps former recipients of Temporary Assistance to Needy Families (TANF) funds and low-income people get to the better paying jobs to support their families without displacing them.

While these grants have contributed to the lowering of the national unemployment percentage, our cities and towns need more assistance. We need to get people to the jobs—whether it is from suburb to suburb, big city to suburbs or rural towns, or suburbs to rural towns. A disproportionate number of low-income persons do not have cars and they rely on public transit to get them to their job. We need to help them to utilize transportation systems we now have in place and to build new transportation system to expand access to employment.

Greater commitment in the form of funding is needed for this program, but we would not necessarily want to see other TEA-21 programs and projects cuts by effort to increase funding to the Job Access and Reverse Commute Program.

#### CONGESTION MITIGATION AIR QUALITY (CMAQ) PROGRAM

Another area that additional funding commitments are necessary for is the Congestion Mitigation Air Quality (CMAQ) Program. The CMAQ funds are allocated to urban and suburban areas that have been deemed as "non-attainment" of Clean Air Act goals. CMAQ funds are designed to be spent on regional projects to help improve air quality.

A clear demonstration that more funding is needed is the inclusion of additional funds toward this program and other Livable Community initiatives in the President's Budget for fiscal year 2000. NLC does not agree with taking gas tax revenues from TEA-21 projects to be allocated to CMAQ, because it would violate the TEA-21 law. But, NLC does support the idea of assuring our nation's cities and towns that there are adequate funding sources that can be tapped into to deal with smog and other air quality problems to make our communities safer and cleaner.

CMAQ is even more important as suburban areas are rapidly growing, and Smart Growth proposals are part of local, State, and Federal planning initiatives. For example, the New York City Council advocates increased levels of funding through

CMAQ and other environmental transportation programs to support transit ridership and the use of clean fuels. The air is better in the Big Apple these days, but more needs to be done. Beefing up the commitment to CMAQ means addressing transit needs and promoting an environmentally friendly city.

While it is difficult to make decisions on how to allocate funding, NLC asks that in future consideration of reauthorization of TEA-21 a higher level of commitment be placed on CMAQ funding.

Mr. Chairman and Members of the Subcommittee, I greatly appreciate your leadership on these issues and look forward to working with you as TEA-21 implementation occurs. We are appreciative of the continued support of the role of local governments in transportation. I also appreciate the opportunity to testify and would be happy to answer any questions that the subcommittee may have at the appropriate time.

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STATEMENT OF ROY KIENITZ, EXECUTIVE DIRECTOR, SURFACE TRANSPORTATION  
POLICY PROJECT

Good morning Mr. Chairman, and thank you for inviting me here today to testify. I am Roy Kienitz, executive director of the Surface Transportation Policy Project. STPP is a coalition of 200 national, State and locally-based public interest groups that work to make transportation serve people and their communities. Our members are concerned with everything from scenic and historic preservation and the environment to the health of downtown businesses and access to transportation for all members of society.

I will divide our comments on TEA-21 implementation into two categories.

First is the performance of USDOT in implementing the portions of TEA-21 over which it has discretion. We give them a generally good score on the work done so far, recognizing that some of the most sensitive decisions have yet to be made.

Efforts to implement the new funding programs created by TEA-21—including those for community planning, innovative finance and others—seem to be going in the right direction. However, the success of these programs must ultimately be judged according to the projects chosen for funding. Good projects make a good program. So far, no final funding decisions have been made in any of the discretionary programs, and so we will all have to wait and see.

In addition, USDOT must write several new sets of regulations that will guide the expenditure of funds at the State level. The most important of these are for planning at the State and metropolitan level, and streamlining of the project approval process. This subcommittee will hold a hearing on the question of streamlining in a few weeks, and so I will hold my comments on that subject until then.

As to the planning regulations, again it is too early to say where USDOT will come down. An options paper has been released, but the range of possibilities it describes is so broad as to make any conclusions about how the final regulations will look impossible. Nonetheless, I will briefly address two planning issues.

First is something called the Major Investment Study. Since 1992, USDOT has required states and MPOs to use a reasonably rigorous process of assessing the costs and benefits of various investment options when major new highway or transit capacity is proposed. In general, this process applies only to large projects in the range of \$100 million or more. The Major Investment Study (MIS) has been an important part of the shift created by ISTEA and sustained by TEA-21 toward basing spending decisions on performance rather than preconceptions.

The MIS is a reform adopted in 1991 to the process that existed previously to assess the advisability of major new projects. For new transit investments, USDOT required years of study and rigorous cost/benefit analysis before work could proceed. For new highways, no cost/benefit analysis was required needless to say this was not a level playing field.

Much attention has been given to ISTEA and TEA-21 roles in opening up our transportation program to new ideas, and the Major Investment Study is where this happens. USDOT is coming under pressure from some quarters to scale back or eliminate the MIS process. This would be a terrible mistake.

Another important planning issue is the process for deciding on the allocation of funding between metropolitan and rural areas within each state. TEA-21 calls on USDOT to assure that funds are divided up inside each State according to a process that is accessible to local officials. The data presented by Mayor Barr, which shows the large inequities that can exist within a State even as the debate over “equity” has dominated the debate over transportation in Washington, point to the need for a rational, transparent process for drawing the outlines of in-state allocations.



Indeed, far more troubling than USDOT's efforts since TEA-21's enactments are the spending trends we are seeing in the field. As you have heard from Mayor Barr, the funding categories that embody the groundbreaking nature of both ISTEA and TEA-21—funds for safety, transportation enhancements and air quality, to name a few—are being consistently shortchanged at the State level in spite of the specific agreements by the authors of the bill, both the House and Senate, to assure minimum funding levels for these programs.

This disconnect is possible because of the new budget authority that TEA-21 creates when tax payments to the Highway Trust Fund exceed the levels projects when the bill was written. TEA-21 goes beyond assuring that there is enough spending authority to use any new money coming in, and instead assures that there is always more spending authority given to the states than is available for actual spending.

This creates a permanent shortfall between expectation, reality, and TEA-21's environmental and safety programs are always the losers. TEA-21 will not live up to its promise until this loophole is closed.

This concludes my statement. Thank you.

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RESPONSES BY ROY KIENITZ TO ADDITIONAL QUESTIONS FROM SENATOR CHAFEE

*Question 1.* Could you please explain STPP's relationship with the EPA's Transportation Partners Program and what the program does?"

Response. The EPA's Transportation Partners Program is an effort by the EPA to disseminate information to government agencies, citizens and others about the effects on the environment of the transportation system, highlight examples of communities that are pursuing transportation strategies with lower environmental impacts, and generally educate stakeholders in the transportation field.

STPP has worked cooperatively with the program on several projects for the last few years. Funding for these projects has been provided jointly by EPA and STPP. These projects include:

- establishment of the information dissemination service *TransAct* (reachable on the internet at [www.transact.org](http://www.transact.org)) which provides reports, analyses, articles, links and other references to anyone interested in transportation and its effects on communities and the environment.
- cooperation with other agencies and groups in the planning and execution of the RailVolution conference, held annually since 1995;
- the presentation of regional conferences in Washington, DC, Atlanta, Chicago and Oakland after the enactment of TEA-21 to interpret its provisions for a lay audience;
- the printing and dissemination of reports and guidebooks on transportation topics, including *Transit Oriented Communities*, *The Transportation Project Planner* and others;
- analyzing the dynamics of the auto insurance market to see if some form of mileage-based insurance is feasible, so that people who drive less are charged less for insurance.

I would also like to make clear that the Transportation Partners Program does not fund or participate in the majority of STPP's activities. This includes the formulation and articulation of our positions on policy issues, most of our printed reports, our analyses of Federal transportation spending, and many other items. In addition, STPP does not participate in legal action of any kind, and has never been party to any lawsuit or other court action.

You may also be interested to know that the EPA is in the process of planning a major reorganization of its activities in this area. One of the results of this review may be the termination of the Transportation Partners Program. For more information on this subject you could contact Ms. Maryanne Froehlich, Director of EPA's Office of Policy Development.

*Question 2.* "What is STPP doing to assure that the CMAQ program is being fully implemented? For example in Panel II, Mayor Barr testified that nationwide CMAQ has the lowest obligation of the five core highway programs at 81.2 percent."

Response. Although we view this as a problem, STPP is not in much position to do anything about it, at least directly. You may know that during the debate on TEA-21? we proposed language for inclusion in the bill that would require states to obligate CMAQ and other environmentally-oriented funding programs at the same rate as other funding programs. We believe that such a provision would make the promises about CMAQ funding that were made when the bill passed a reality on the ground. In the absence of such a provision, it is likely that actually spending on environmental programs will fall far short of the levels authorized in the TEA-21 bill.

## STATEMENT OF TAYLOR BOWLDEN, AMERICAN HIGHWAY USERS ALLIANCE

Mr. Chairman and members of the subcommittee, thank you for the invitation to appear before you today and the opportunity to present our views on the implementation of TEA-21.

I am Taylor Bowlden, vice president of the American Highway Users Alliance. The Highway Users represents a broad cross-section of businesses and individuals who depend on safe and efficient highways to transport their families, customers, employees, and products. During the development of TEA-21, we administered a coalition, called Keep America Moving, that lobbied in support of the business community's agenda. We worked closely with many members of the Environment and Public Works Committee during the long months of negotiations on that complicated and often controversial legislation.

Though we didn't get everything we sought in TEA-21, we believe the nation will be well served by the important transportation improvements that the law makes possible. In particular, we believe the budgetary firewall, created under TEA-21 to ensure that Federal highway taxes are used for their intended purposes, is a landmark change in Federal policy that marks TEA-21 as the most important highway legislation since Congress approved construction of the Interstate System in 1956. Left intact, the budgetary firewall, or funding guarantee, as I'll refer to it here, will channel motorists' taxes into road and bridge improvements that will save lives and build a stronger economy for years to come. We commend the members of this committee who worked hard to hammer out a deal on the firewall that could survive opposition from some quarters in Congress and at OMB.

Today, I want to discuss five general areas of concern regarding the implementation of TEA-21: the funding guarantee, so-called "smart growth" initiatives and the Vice President's "Livability Agenda," safety considerations in transportation planning, environmental streamlining, and Interstate tolls. There are, of course, other important implementation issues, but these five are our top priorities because they affect the number of road improvements that can be financed annually, the extent to which traffic congestion and safety problems can be alleviated, and the speed with which those projects can be completed.

## FUNDING GUARANTEE

For the first time since the Highway Trust Fund was created, TEA-21 provides a statutory link between highway funding and the taxes paid by motorists for highway improvements. The budgetary firewall is not, strictly speaking, a guarantee that Federal spending on highways will equal receipts from motor fuel taxes and other highway user fees. Appropriators could reduce highway funding below the "guaranteed" amount (although TEA-21 eliminates most incentives to do so), or a future Congress could simply rewrite the firewall provisions. To date, however, the firewall seems to be working as intended: guaranteeing that highway taxes are invested each year in highway and other transportation improvements rather than being used to finance other Federal programs.

To ordinary taxpayers, the funding guarantee means the Federal Government is going to spend your highway taxes as it promised when the taxes were imposed. We applaud the Congress for writing this basic principle of taxpayer fairness into law. We look forward to working with members of this committee to protect the firewall provisions against encroachment by those who prefer the old scheme of borrowing highway taxes to finance other elements of the Federal budget.

Since the TEA-21 funding guarantee may become an issue at some point in this year's appropriations cycle, let me make two additional points about it.

First, the money is needed. Every State has a long backlog of unmet road and bridge improvements. Nationwide, 26.5 percent of major roads are in poor or mediocre condition; 31 percent of bridges should be repaired or replaced; and 31 percent of urban freeways are regularly congested. That's why the nation's Governors last year gave such strong support to the highway funding guarantees being developed in TEA-21. It's also why Governors attending the National Governors' Association winter meeting 2 months ago held a press conference urging Congress to fulfill the funding commitments made in TEA-21.

Second, motorists are still paying more taxes than they're getting back in highway funds. A recent report of the Joint Committee on Taxation (JCT) makes it clear that even if TEA-21's funding guarantee remains intact and fully implemented, tax deposits to the highway account of the Highway Trust Fund will exceed outlays every year. As a result, although Congress agreed to write down the highway account's cash balance to \$8 billion in 1998 and eliminate future interest payments from the general fund, the JCT report indicates that the account's cash balance will balloon

to \$28.8 billion by the end of TEA-21 and a projected \$31.8 billion over 10 years. [A chart from the JCT report is attached as an addendum to my written statement.]

In summary, the funding guarantee of TEA-21 is a matter of honesty with the taxpayers; it provides a significant increase of needed funding for road and bridge improvements; and it still under-funds the highway program relative to the highway taxes paid by motorists. We urge the subcommittee to defend its handiwork and protect the funding guarantee against encroachment by other committees or the White House.

#### LIVABILITY AGENDA

That leads me to our next priority for TEA-21 implementation: the Clinton/Gore "Livability Agenda". When the Vice President announced this initiative on January 11, it was widely praised on Capitol Hill and in the media. He proposed approximately \$1.5 billion in new Federal spending on public transit, the Congestion Mitigation and Air Quality program, and so-called "smart growth" initiatives aimed at controlling land development. It wasn't until the President's budget was transmitted in February, however, that we learned the money was proposed to come out of each state's share of Federal highway funds.

We were delighted that Chairman Chafee immediately wrote to Secretary Slater expressing the chairman's "great reservations about the President's proposal." Specifically, Senator Chafee noted that paying for the Livability Agenda by deducting a portion of each state's Federal highway funds would reopen the issue of funding formulas and upset the programmatic balance in TEA-21 between, for example, bridges, transit, and interstate maintenance.

Senator Byrd, a leader in last year's fight to increase funding for highways, made much the same point, perhaps in even clearer terms, at last month's Transportation Appropriations Subcommittee hearing on the President's budget. Senator Byrd rejected the proposed diversion of highway construction funds to non-highway uses and told Secretary Slater, "that as far as I am concerned, the highway funding guarantee is not open to negotiation."

Opposition from leaders of the Senate authorizing and appropriations committees should pretty well settle the issue of using highway funds to finance the Livability Agenda. We urge the subcommittee to join with Chairman Chafee in opposing the administration's funding proposal.

Apart from the particular financing scheme, however, there remain important policy concerns associated with the Livability Agenda and similar "smart growth" proposals being debated in State capitals. Smart growth initiatives adopted by states or the Federal Government could dramatically impact the permissible use of TEA-21 funds and local officials' ability to address suburban growth, traffic congestion, and related air quality issues.

At the outset, let me say that our members support the stated objectives of the Livability Agenda: more open space, reduced traffic congestion, a higher quality of life, and more livable communities. Few, we suspect, are advocating public policies intentionally designed to produce more traffic congestion or a lower quality of life. It's a question of the appropriate means to achieve a common objective.

A common theme for Vice President Gore and many smart growth advocates seems to be that public infrastructure investments—highways, water and sewer lines, schools, etc.—have facilitated or, perhaps, induced growth in suburban communities, traffic congestion, and air quality or other environmental problems. If we cutoff those expansion-oriented investments, the argument goes, and direct public funds toward transportation alternatives and other infrastructure investments in already developed areas, we can encourage better private choices in terms of where people live or work and how they travel.

Unfortunately for those advocates, a growing body of evidence suggests that this approach will neither inhibit suburban expansion nor improve the related problems of traffic congestion and air quality. The evidence, in fact, suggests that the ongoing migration of jobs and people to the suburbs has little to do with the transportation facilities available in an area and that most transportation options are unsuited to our increasingly decentralized pattern of living.

For instance, a recent University of California study found that most people choose where to live based on a desire to get away from the central city, for access to the outdoors, and for improved safety and public schools. And in a recent public opinion poll in Wisconsin, people listed as their top priorities in deciding where to live: quality public education, a house they could afford, good jobs and low traffic congestion. Secondary priorities were open spaces and low-density housing. The availability of public transit was a low priority.

So, as Americans become more prosperous, they look for a house they can afford with more living space, quality public education for their children, and a safer neighborhood. In both housing and commercial developments, Americans are looking for more space, and government policies aimed at squeezing them back together are unlikely to produce what ordinary citizens would call a higher quality of life.

In addition, the evidence is strong that public investments in alternatives to highway travel are unlikely to relieve traffic congestion or improve air quality. Between 1980 and 1990, the only mode of commuting that realized an increase in the percentage of workers was "driving alone". During that time period, there were 19 million net additional workers but 22 million more people driving to work alone. Essentially, that means every new member of the work force chose to drive alone, plus three million workers switched from some other mode of travel to driving by themselves.

Why? Is it because Americans hate biking, walking, or mass transit? No. It's simply because those alternatives often don't work for them. The majority of new single-occupant-drivers in the last decade were working women. Most of them run family errands on the way to or from work, and driving their own car is the only workable solution. A March 3, 1999 article on the front page of the Washington Post entitled, "Women Taking The Long Way Home," made exactly this point from the perspective of a working mother living here in a Washington suburb.

For that reason, it is highly unlikely that traffic congestion problems will be solved by diverting funds away from road improvements and into transportation alternatives instead. In many fast-growing regions, additional highway capacity is desperately needed and the only effective way to address the transportation demands of busy suburban commuters.

The Washington, DC. metropolitan area offers a good illustration of this point. Over the last two decades, Washington has built an excellent rail transit system and invested heavily in the construction of high-occupancy-vehicle (HOV) lanes. As a result, we have the nation's third highest percentage (13.4 percent) of commuters who use transit and easily the highest percentage (16 percent) of commuters who carpool. Yet, according to the Texas Transportation Institute's annual report on traffic congestion, Washington now has the second worst congestion in the country. And a 1997 transportation study conducted by the Greater Washington Board of Trade concludes that the problem lies in an insufficient metropolitan road network. "Washington has the most commuters per household traveling on one of the smallest highway networks [in the country]," according to the Board of Trade.

Again, we all want less traffic congestion, cleaner air, and more livable communities. Good public policy, however, should take into account observable patterns in housing and commercial development as well as demographic and technological changes that make further decentralization seem likely. In many cases, traffic flow improvements and additional highway capacity will be the only effective means to address the transportation demands in fast-growing areas. In most cases, TEA-21 makes these solutions possible. State and local officials should be left to decide what kind of solutions make sense in their areas.

#### SAFETY IN TRANSPORTATION PLANNING

TEA-21 specifies seven factors that State and metropolitan officials must consider in developing transportation plans, and for the first time, safety is explicitly included among the planning factors. On February 10, 1999, after an extensive public outreach and comment period, the Federal Highway Administration (FHWA) issued a paper seeking further public comment on options for implementing TEA-21's cross-cutting planning and environmental provisions. Unfortunately, the 23-page "options paper" does not include a single reference to methods by which FHWA intends to highlight safety as a factor in the development of transportation plans.

Secretary Slater has referred to safety as the "north star" guiding the Department of Transportation's work and policy agenda. We think safety should indeed guide the work of all transportation decisionmakers: Federal, State, and local. For that reason, and given TEA-21's new elevation of safety as a factor in the development of transportation plans, we believe FHWA should issue new planning guidance that clearly makes safety a top priority.

Unfortunately, safety has been, and remains, a major problem in highway travel. Poor road conditions and obsolete road designs contribute to nearly a third of all fatal crashes in the U.S. Each year, an average of 12,000 people die in collisions with roadside hazards such as trees, utility poles, and embankments, and another 3,500 die in rollover crashes, many of which might be prevented with safety improvements such as wider shoulders or a more gradual side slope. Unlike other areas of highway safety—driver behavior and vehicle design—where significant

gains have been made, the percentages of fatalities related to roadside hazards has actually risen over the past two decades.

Fortunately, this trend can be reversed with well designed and maintained roads. We believe that is the principal reason Congress added safety to the transportation planning factors, and we encourage the subcommittee to tell FHWA officials that safety should clearly be a top-priority item in any guidance issued on TEA-21's new planning requirements.

#### ENVIRONMENTAL STREAMLINING

Section 1309 of TEA-21, entitled *Environmental Streamlining*, establishes a coordinated environmental review process that, like other elements of TEA-21, is intended to expedite the delivery of transportation projects while still meeting Federal environmental requirements. The Secretary of Transportation is directed to establish a process with other Federal agencies by which all Federal environmental reviews can be performed concurrently, rather than sequentially. And the law anticipates development of a dispute resolution process for cases in which a project-related environmental issue is not resolved in a timely fashion.

We applaud Congress for taking this important step to eliminate unnecessary and unwarranted delays in the development of major transportation projects. The streamlining proposed in section 1309 cannot be accomplished, however, without USDOT's active support, working with myriad other Federal agencies. The February 10 FHWA "options paper," to which I referred previously, indicates that some discussions have occurred between FHWA officials and representatives of other Federal agencies involved in the environmental review process. Our understanding, however, is that no memorandum of understanding has been reached to date with any of the other Federal agencies.

We understand the difficulty of this task, particularly as it involves numerous Federal agencies. Our hope is that the Transportation & Infrastructure Subcommittee will offer FHWA any support that may be needed to encourage other relevant Federal agencies to cooperate in reaching timely and workable agreements to implement the Environmental Streamlining provisions fully. It does not seem unreasonable to expect such agreements to be obtained in writing by the end of this fiscal year, 2 years into TEA-21.

#### INTERSTATE TOLLS

Last but not least on our agenda is a provision we lost in TEA-21. Section 1216(b) of the legislation establishes the "Interstate System Reconstruction and Rehabilitation Pilot Program," authorizing up to three States to place tolls on existing, toll-free Interstate routes in order to finance reconstruction of the route. We strongly opposed the provision when it was debated in Congress, and since its enactment, we have worked with in-state highway user groups to ensure that public officials are aware of the strong public opposition to Interstate tolls that exists in every state. To date, no State has submitted an application to participate in the pilot program, and FHWA recently extended indefinitely its original March 31, 1999 deadline for applications to be received.

I raise the issue in this hearing not because there is a problem with implementation of the program: FHWA issued clear implementation guidance in its solicitation notice published in the Federal Register on February 10. Instead, I wanted to take this opportunity to reiterate The Highway Users' opposition, and what we believe to be strong public opposition, to tolls on existing, toll-free Interstates. Our hope is that if Congress considers legislation making changes to TEA-21, this subcommittee, taking into account the fact that no State has applied to participate in the Interstate tolling program, will simply repeal it.

We understand that these hearings are not necessarily a prelude to any TEA-21 mid-course corrections bill, but in case the opportunity for new legislation arises, we wanted to draw your attention again to the highway user community's opposition to Interstate tolls.

Mr. Chairman, thank you for inviting The Highway Users to testify at your first hearing on TEA-21 implementation. I will be happy to answer any questions that you or members of the subcommittee may have.

Table 1. Revenues and Outlays for the Highway Account of the Highway Trust Fund, Fiscal Years 1998–2009  
[in millions of dollars]

Year	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Tax Revenue .....	23,135	31,600	28,737	29,262	29,855	30,500	31,152	31,828	32,493	33,157	33,821	34,485
Interest <sup>1</sup> .....	1,165	0	0	0	0	0	0	0	0	0	0	0
Total Revenue .....	24,364	31,600	28,737	29,262	29,855	30,500	31,152	31,828	32,493	33,157	33,821	34,485
New Budget Authority .....	24,657	29,769	31,874	31,039	31,609	32,171	32,813	32,816	32,818	32,821	32,824	32,827
Outlays .....	20,350	23,920	26,531	27,991	28,333	28,849	29,962	29,356	29,918	30,504	31,121	31,758
End-of-Year Balance .....	8,459	16,139	18,345	19,616	21,138	22,789	24,979	27,452	30,026	32,679	35,379	38,105

As provided in P.L. 105–178, “The Transportation Equity Act for the 21st Century,” no interest is credited to either the Highway Account or the Mass Transit Account of the Highway Trust Fund after September 30, 1998.

Source: Congressional Budget Office (“CBO”). Data for 1998 report actual tax revenues transferred to the Trust Fund as tabulated by the CBO using IRS data. The data for 1998 also report actual New Budget Authority and Outlays. Some of the outlays from the Trust Fund represent payments over one or more years on contracts related to capital projects. As a consequence, the reported “end-of-year balance” does not represent an unobligated balance available for appropriation. Tax revenues credited to the Trust Fund represent the gross receipts from taxes dedicated to the Trust Fund, net of any refunds of tax paid out during the fiscal year. Because excise taxes give rise to income and payroll tax offsets, the gross receipts from an excise tax do not represent the net revenues from the excise tax for unified budget reporting purposes. The net revenues to the Federal Government will be less than the “tax revenue” reported in the table. In addition, under present-law budget rules for the purpose of determining baseline receipts, excise taxes dedicated to trust funds are assumed to be permanent regardless of statutory expiration dates. The information reported for fiscal years 1999 through 2009 are CBO projections based on the March 1999 CBO baseline including projected inflation.

## STATEMENT OF THE ELECTRIC VEHICLE ASSOCIATION OF THE AMERICAS

## INTRODUCTION

This testimony is presented on behalf of the Electric Vehicle Association of the Americas (EVAA), a national non-profit organization of electric utilities, automobile manufacturers, State and local governments and other entities that have joined together to advocate greater use of electricity as a transportation fuel. Recently, the EVAA consolidated with the Electric Transportation Coalition (ETC), and our new organization, headquartered in Washington, DC., is now the single, united voice for the use of electricity in the transportation sector.

## THE ROLE OF ELECTRICITY IN THE NATIONAL TRANSPORTATION SYSTEM

The Association believes that utilization of electricity as a fuel source can be an important factor in the national transportation system. For many urban areas, electric transportation may be a particularly important means to substantially reduce emissions of mobile source pollutants, including volatile organic compounds and oxides of nitrogen, that are the precursors of smog. Electric vehicles (EVs) and electric buses, for example, are truly "zero emission" vehicles in operation. Last year, Congress recognized the potential of electric and hybrid-electric vehicles during authorization of the Transportation Equity Act for the 21st Century (TEA-21). While the Association is pleased with the authorized programs under TEA-21 that address electric and hybrid electric buses, we are concerned about the implementation of a key provision which is vital to the successful development of these new technologies.

## TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY (TEA-21)

In TEA-21, Congress authorized a \$60 million electric and hybrid-electric bus deployment program as part of the Federal Transit Administration's (FTA) Clean Fuels Formula Grants program. During the FY1999 appropriations process, funding for the Clean Fuels Formula Grants program was merged with funding for the bus and bus-related facilities program. Combining these programs allowed the Congress to substantially increase the pool of authorized funds available for bus projects. Indeed, Congress decided to designate funds to specific projects. As a consequence of this action, a sought-after benefit of the electric-bus deployment program may not be realized. That benefit is information sharing and technology transfer. Electric and hybrid-electric bus technology, including fuel cell bus technology, is in the early stages of deployment and evaluation. Early experiences with some of these buses have evidenced the need for the technology to mature. Much could be learned about these cutting edge technologies if transit operators receiving Federal funds to procure and operate these buses were to participate in a program specifically designed to disseminate and transfer information. The Association is concerned that without attention to information sharing, the value of the program for the development and widespread use of electrified mass transit will be significantly diminished. We have recommended, therefore, that Congress initiate, and then support, a program specifically designed to transfer technology and disseminate information about electric and hybrid-electric buses.

The EVAA also believes it is important for the Federal Transit Administration (FTA) to issue guidance on the implementation of the Clean Fuels Formula Grants program as it pertains to electric and hybrid electric buses. This guidance would define a set of common criteria to guide project sponsors who will seek to use funds appropriated for the electric bus program. The issuance of guidance documents for the Clean Fuels Formula Grant program and the electric bus sub-program would help to focus attention on consideration of standards, common goals and technology transfer.

The Association has written a letter to FTA Administrator Linton urging him to issue guidance regarding the electric bus program. Such a guidance is necessary to insure that some uniformity in bus design and application is achieved as this infant technology matures. The Association would very much appreciate the Subcommittee's attention to this matter.

## CONCLUSION

We would like to thank the Subcommittee for this opportunity to identify the Association's concerns. We look forward to working with the Subcommittee and the Congress to facilitate an environment which enhances the technology of electric and hybrid-electric vehicles.

STATEMENT OF NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, PROMOTING  
SAFE PASSAGE INTO THE 21ST CENTURY—STRATEGIC PLAN 1998

MESSAGE FROM THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATOR

The past four decades have witnessed dramatic reductions in the number of people killed and injured in traffic crashes on the nation's roadways. This is the result of safer vehicles and highways, fundamental changes in driver behavior, and a national commitment to healthier lifestyles (including advances in medical care and shifts in health behaviors). Agency programs during this period saved more than a quarter of a million lives and \$700 billion.

Traffic crashes nonetheless continue to be a leading public health problem. Although the country can be proud of safety successes on record, motor vehicle crashes are still the leading cause of death for people ages 6 to 27 and impose an economic penalty on the public of \$150 billion a year. In 1997 alone, 41,967 people were killed in traffic crashes and another 3.45 million were injured.

Since issuing our original strategic plan in 1994, the agency has made significant strides. We expanded our safety partnerships, focused attention on preventing crash injury, gave a face to the human tragedy resulting from crashes, and provided tools for safety advocates to take responsibility and work with us. Initiatives were undertaken to advance occupant protection, protect against head injury, and improve child passenger protection. We are working closely with States, industry, safety advocates, and the public to make travel safer.

We are pleased to issue a new strategic plan that updates important safety issues, agency priorities, and program strategies. The new plan is entitled "Promoting Safe Passage Into the 21st Century," and it was developed in concert with our partners from all sectors of the U.S. traffic safety community. I want to acknowledge and thank them for their contribution.

This plan identifies where we have been and where we are going as we continue to work on reducing the tragedy on the nation's highways. The model for our program design is the Haddon Matrix developed by the first administrator of the National Highway Traffic Safety Administration, who was a physician. We focus on pre-crash, crash, and post-crash portions of the problem, with activities relating to the people involved, the vehicles, and the environment. Specific problems are defined, and the strategies for addressing them are presented.

Internally, we are focusing on programs that reduce crash injuries, strengthen our staff, and position the agency so that we will be prepared to respond as the environment changes. Our goal is to work intermodally with all agencies in the Department of Transportation in a ONE DOT strategy. Externally, we will continue working with all of our partners to bring about changes needed to reduce deaths and injuries. We remain committed to being the world leader in developing innovative and effective safety programs, serving as a technical resource for the highway safety community, and fostering a work environment that is known for its productivity and effectiveness.

MISSION AND LONG TERM GOALS

*Mission*

The National Highway Traffic Safety Administration's (NHTSA) mission is to save lives, prevent injuries, and reduce traffic-related health care and other economic costs. The agency develops, promotes, and implements effective educational, engineering, and enforcement programs directed toward ending preventable tragedies and reducing safety-related economic costs associated with vehicle use and highway travel.

*Department of Transportation Goals*

As an agency of the Department of Transportation (DOT), NHTSA is committed to an intermodal program focused on safety. In 1997, DOT published a new strategic plan addressing five goals: safety, mobility, economic growth and trade, human and natural environments, and national security. NHTSA's primary role within the Department is to improve traffic safety. NHTSA's programs also make contributions to DOT's mobility, economic growth and trade, and human and natural environment goals.

*Public Health Problem*

The prevalence and tragedy of motor vehicle injuries provide NHTSA with the challenge and opportunity to improve and increase crash and injury prevention measures. In the United States, injury is the leading cause of traumatic death for all ages from 1 to 44, and motor vehicle injury is the No. 1 cause of death from



injury (accounting for almost one-third of the deaths each year). Motor vehicle injury is the leading cause of death for persons ages 6 through 27 and the leading cause of occupational injury deaths, as well as the leading health care cost. Typically, persons injured in motor vehicle crashes suffer multiple injuries and often must endure long hospitalizations. Ten percent of crash victims with head injuries, for example, will be in a hospital or rehabilitation center for up to 1 year. Because most of these victims are young, their long-term disabilities carry a heavy cost burden.

#### *NHTSA's 2008 Goal*

NHTSA, working with the Federal Highway Administration (FHWA), established a goal of reducing highway fatalities and injuries 20 percent by the year 2008. This plan describes the strategies that NHTSA is undertaking to achieve this goal. These strategies, if successful, will reduce fatalities from 42,065 (1996) to about 33,500 (2008) and injuries from 3,511,000 (1996) to 2,809,000 (2008). With the expected increase in travel, meeting the 2008 goal will result in a concomitant decrease of 35 percent in the fatality rate. At a time when America is searching for ways to cut health care costs, reaching these objectives would result in a \$2.3 billion annual reduction in health care costs.

#### *Accountability*

Since its inception, NHTSA has tracked the number of traffic fatalities and injuries. This represents one means of measuring agency and program performance. This history, plus NHTSA's participation as a pilot agency in the Government Performance and Results Act (GPRA), led to NHTSA's being named by the President's Office of Management and Budget as 1 of only 10 "exemplar" Federal agencies in the pilot program. As GPRA approaches its fifth anniversary, NHTSA continues to push the envelope in such critical areas as conducting strategic planning, managing change, and driving accountability deeper into the organization. This plan is testimonial to how the agency is managed using the principles and philosophy of GPRA.

### CUSTOMERS AND PARTNERS

#### *Customers*

NHTSA's customers are the American people. They do not speak with a single voice, but with many. Every day, from every State, customers call into the Auto Safety Hotline, speak with NHTSA employees, and communicate through faxes, e-mail, and letters. Customers tell NHTSA what it is doing well, what it needs to do more of, and how it can do better. NHTSA views its job as not just listening, but hearing. The agency uses this ongoing dialog to understand the current needs of customers more fully, as well as to anticipate future needs. That is one way NHTSA can foster innovation and better focus its resources.

This strategic plan puts into action what has been heard from customers, such as the need for safer air bags, the existence of safety defects in vehicles, and the inherent dangers in aggressive driving. The plan also demonstrates how NHTSA serves its diverse customer segments, such as older drivers, young children and people with disabilities. The many voices of the customer play a fundamental role in helping the agency create its strategic plans.

#### *Partners*

NHTSA has used its leadership in traffic safety to form strategic alliances with valuable partners. The agency has emphasized the need for enlisting new, non-traditional partners, such as members and groups of the medical and allied health care professions. These partners help the agency build bridges to a broader set of customers. Partners are selected because of their unique strengths or abilities to deliver NHTSA's products and services to its customers. Approaching partnering from this perspective has produced customer benefits that are greater than would have been achieved if parties operated independently. In an environment in which cost-effective strategies are crucial, NHTSA's approach to partnering leverages resources and will become increasingly important for achieving its goals.

Some participating partners include:

Automobile, Trucks and Trailer Rental and Leasing Companies; Business Community; Community Groups; Consumer and Advocacy Groups; Crash Dummy, Test Equipment, and Instrumentation Manufacturers; Educational Community; Federal Agencies, State and Local Governments; Foreign Governments; Health Care Providers and Professionals; Insurance Industry; Law Enforcement and Legal Communities; Media and Communications; Motor Vehicle Administrators; Motor Vehicle and Equipment Manufacturers; National and International Standards Organiza-

tions; Professional and Amateur Sports Organizations; Professional Societies; Public Safety Organizations (Police, Fire, EMS); Public Health and Injury Control Organizations/Associations; Research Community; Schools; Trade Associations.

#### ENVIRONMENT

In striving to meet its goals, NHTSA must consider the various factors affecting traffic safety. Factors that NHTSA management can control, such as research and regulations, are discussed in the strategy section of this plan. Factors outside the control of NHTSA management are called “environmental factors.” The environment is defined as forces, social trends, and institutions that affect NHTSA. These powerful, fundamental forces create opportunities and threats that shape the future strategic direction of NHTSA. NHTSA will continually adapt its policies to environmental changes to achieve its goals.

Tracking changes in the environment allows NHTSA to make informed assumptions about how these forces will affect the future of traffic safety. The agency has conducted an extensive analysis of the environment and reviewed a similar analysis conducted by DOT. A complete discussion of the agency’s analysis of the environment can be found in the NHTSA 2020 Report (which is available on the agency home page [<http://www.nhtsa.dot.gov>] and from the Office of Plans and Policy, 202/366–1574).

The assumptions used by management to make decisions about this plan are summarized next. The factors described will affect traffic safety well into the 21st century, requiring NHTSA to account for them by reshaping its strategic direction.

#### *Demographics*

- *Population Growth:* From 1995 to 2020, the U.S. population is predicted to grow by 21 percent. Without effective safety interventions, there will be more crashes and, consequently, higher fatality and injury levels.
- *Aging of the U.S. Population:* The population of Americans over age 65 will increase by 56 percent by 2020. Special safety risks associated with older drivers, vehicle occupants and pedestrians will demand new strategies.
- *People With Disabilities:* The percentage of people with disabilities increases with age (13.6 percent of people ages 18 to 44, 29.2 percent of those ages 45 to 64, and 84.2 percent of those ages 85 or older), thus demanding new strategies to reduce the safety risks for drivers with reduced functional capacity, vehicle occupants, and pedestrians.
- *Large Number of Younger Drivers:* The population of drivers in the age group 16 to 24 will increase 19 percent by 2020. Unless effective strategies are implemented, a continued over representation of younger drivers in traffic crashes can be expected.

#### *Travel*

- *Women in the Workplace:* The number of women in the workplace has nearly doubled since 1960. As a group, women traditionally have been safe drivers. However, as they have been assimilated into work-related travel, their fatality and injury rates have begun to approach those of the overall population.
- *Congestion:* There will be nearly 280 million registered vehicles in the United States in 2020. If driver stress resulting from this congestion leads to aggressive driving, America could see a significant increase in unsafe driving behaviors.

#### *Health Care*

- *Improvements in Emergency Medical Service (EMS) and Technology:* By 2020, Emergency Medical Services will have evolved into a technologically advanced, community-based health management system that is fully integrated into the overall U.S. health care system. Automatic notification of vehicle crashes will facilitate more rapid response to assist victims. Crash and injury data linkages back to vehicle design will lead to significant safety improvements.

#### *Economy*

- *Economic Growth:* Fueled by increasing competition, economic expansion will accelerate, creating more highway travel, increasing the risk of crashes, and in turn, increasing traffic fatalities and injuries.
- *The Global Market and Harmonization:* The global economy will intensify competition, thereby mandating the establishment of regulatory requirements and certification procedures that minimize the cost burden to vehicle manufacturers and consumers while ensuring safe vehicles for motorists worldwide.

#### *Natural Environment*

- *Vehicle Emissions:* The adverse effect of fossil fuels on the environment will increase pressure to develop vehicles that rely on energy sources less harmful to the environment. These vehicles will present new safety challenges, particularly as they are integrated into the existing fleet.

#### *Motor Vehicles*

- *Demand for Safety:* The relative importance of safety in the consumer's vehicle decisionmaking process will continue to increase in importance.
- *Intelligent Transportation System (ITS) Technologies:* The integration of electronic technology into the safety design of vehicles will accelerate the radically changing interface between humans and vehicles and affect driver behavior.
- *Vehicle Size Compatibility:* The continued growth in light truck sales relative to passenger car sales will exacerbate the safety problems associated with multi-vehicle crashes.

#### *Government*

- *The Role of Governments:* Significant changes will occur in the way the Federal Government interacts with State governments and individuals.
- *Greater Personal Responsibility:* As the Federal Government's involvement in the lives of citizens is reduced some responsibility is passed to State and local agencies, but personal responsibility for safety will become paramount and call for increased local resources.

### THE STATE OF TRAFFIC SAFETY

For over 30 years, NHTSA has tracked the number of traffic deaths, injuries and related statistics. The most important of these trends are presented below. Viewed as a whole, key trends demonstrate that the approaches used by NHTSA in the past were successful, but recently those trends have leveled off, indicating that NHTSA's historic approaches must be modified to meet its 2008 goals.

#### *Traffic Fatalities*

Since 1966, the number of traffic fatalities has declined, but remains at a high level. In 1997, 41,967 people were killed in motor vehicle crashes. Traffic crashes, in fact, account for 94 percent of all transportation fatalities.

#### *Traffic Fatality Rate*

The fatality rate per 100 million vehicle miles traveled (VMT) has declined significantly since 1966. If the rate 30 years ago had persisted in 1997, more than 130,000 people would have died in crashes, instead of the 41,967 deaths reported. Since 1992, the rate has not declined, instead remaining stalled at 1.7 fatalities per 100 million VMT.

#### *Traffic Injuries*

Since 1988, the number of injuries has increased slightly. In 1997, an estimated 3.45 million people were injured in police-reported crashes, which is a 1.7 percent reduction from 1996. Traffic crashes account for 99 percent of transportation-related injuries each year.

#### *Traffic Injury Rate*

The injury rate per 100 million VMT has declined overall from 169 in 1988 to 141 in 1996. The rate has been flat since 1992. Injuries result in societal costs of \$77.7 billion, including \$16.5 billion in health care costs.

#### *Alcohol Traffic Fatalities*

Alcohol-related traffic fatalities have declined, falling almost 30 percent from 1986 to 1996. There were 16,189 alcohol-related traffic deaths in 1997, which represented 38.6 percent of total traffic fatalities, the lowest percentage on record. This rate is in marked contrast to rates for other years—40.9 percent in 1996 and 57.3 percent in 1982.

#### *Seat Belt Use*

Seat belt use increased from an estimated 11 percent in 1981 to 69 percent in 1997. Belt use has increased only slightly in the past few years. Seat belts saved an estimated 10,414 lives in 1996, but 45 percent of passenger car occupants and 51 percent of light truck occupants involved in fatal crashes were unrestrained.

## STRATEGY

Over the past 30 years, NHTSA developed successful strategies that helped reduce traffic fatalities and injuries. Recently, changing environmental conditions have resulted in flattened traffic death and injury trends. Nonetheless, NHTSA is committed to a goal of reducing fatalities and injuries 20 percent by the year 2008. To achieve this aggressive goal, the agency faces the challenge of identifying new approaches for driving down fatalities and injuries.

*NHTSA Has Two Strategies for Achieving the Year 2008 Goal*

- Identify new approaches in the behavioral, vehicular and program delivery areas.
- Identify and correct operational impediments preventing NHTSA from implementing the new approaches.

The strategic plan describes activities for implementing these strategies.

- Safety: In this section vehicular and behavioral safety problems are defined and NHTSA's strategies for solving them are identified. For NHTSA to achieve the year 2008 goal, these strategies must be successful. The problems and strategies are organized according to the Haddon Matrix, which is composed of three time phases of the crash event plus the three areas (human, vehicle, and environment) influencing each of the phases.

*The Haddon Matrix*

- Mobility, Economic Growth and Trade, Human and Natural Environments: Problems and strategies related to these DOT nonsafety goals are discussed. Although NHTSA's primary focus in these areas is on safety, solutions to the problems will produce secondary outcomes that directly contribute to DOT's nonsafety goals.
- Program Delivery: NHTSA's strategies for delivering its products and services are discussed. Cost-effective program delivery strategies are increasingly important as NHTSA seeks to meet expanding safety responsibilities.
- Corporate Management Strategies: This section identifies key operational areas that will enable NHTSA management to continue the agency's orderly transition to a modern, more effective organization.

## SAFETY

*Alcohol and Drugs*

*Problem*

Although alcohol-related fatalities have declined over the past 10 years, impaired driving remains a leading cause of traffic fatalities. Young drivers between 15 and 24 years of age are involved in 27 percent of alcohol-related fatalities. Repeat offenders account for about one-third of those arrested for driving while intoxicated (DWI). The agency reported that 16,189 alcohol-related traffic deaths occurred in 1997, which represented 38.6 percent of total deaths. Although this was a decrease of almost 1,000 deaths from 1996, crashes involving impaired drivers remain a major national problem. More than 321,000 people were injured in crashes in which the police reported that alcohol was present. The agency estimates that drugs other than alcohol are used by approximately 18 percent of the drivers killed in crashes. Unfortunately, drugs are often used in combination with alcohol which may compound the problem.

*Strategy*

The agency's goal is to reduce the number of alcohol-related traffic fatalities to 11,000 by the year 2005. The agency will work with the States to achieve maximum impact from the resources available through new incentive grant programs, especially those associated with Section 410 and .08 BAC legislation. By implementing the legislative and programmatic initiatives needed to qualify for these grants, States will put in place more effective tools for deterring impaired driving. The agency will also promote additional best practices to States, communities, and national organizations using the framework of Partners in Progress: An Impaired Driving Guide to Action. The agency will develop programs to address the seven components of the Guide for Action, including: (1) public education, (2) individual responsibility, (3) health care community, (4) businesses and employers, (5) legislation, (6) enforcement and adjudication, and (7) technology. The agency will strengthen its partnerships and seek out new allies to help reach the national goal. NHTSA will promote passage of effective legislation and support prevention, education, and technical assistance activities for law enforcement officials, prosecutors, judges, and the public. Zero tolerance laws have been promoted by the Administration as an effective tool against drunk drivers, especially younger drivers. The Presidential Ini-

tiative on Drugs, Driving and Youth uses similar strategies to reduce impaired driving by youth. In addition, the agency will use the Presidential Initiative on .08 BAC as a framework for collaborating with other Federal agencies, States, and communities for making .08 BAC the "law of the land".

#### *Aggressive Driving and Speeding*

##### *Problem*

Driving behaviors likely to endanger people or property range from risky maneuvers such as tailgating to acts of violence and are defined as aggressive driving. Public opinion surveys indicate that aggressive driving actions, such as exceeding speed limits and driving too fast for conditions, changing lanes unnecessarily, following too closely, passing on the shoulder, running red lights, and others, are behaviors of concern and among the most prevalent actions associated with fatal and injury crashes. The public's concerns have been validated. Current understanding of these unsafe behaviors suggests that aggressive driving is associated with one-third of traffic crashes and two-thirds of the resulting fatalities. Speeding is one of the most prevalent factors contributing to traffic crashes and, in 1997, was associated with 30 percent of all fatal crashes, resulting in 13,036 deaths. Speeding was also a factor in with crashes causing 116,000 injuries.

##### *Strategy*

NHTSA's goal is to reduce speeding-related fatalities 5 percent by the year 2000. The agency's strategy will focus on: integration of traffic enforcement into overall State and community law enforcement, work with FHWA on automated enforcement equipment (to increase police effectiveness while cutting costs), and technical assistance, as well as demonstrations of interventions to deter aggressive driving. Research will study the role of speeding and aggressive driving in crashes; examine new measures against speeding, aggressive driving, and other unsafe driving acts; and collaborate with FHWA on setting speed limits and studying road design solutions to speeding and aggressive driving.

#### *Motorcycles*

##### *Problem*

In 1997, motorcycle fatalities constituted about 5 percent of the total annual traffic fatalities (2,106 fatalities). An additional 54,000 motorcyclists were injured in 1997. Measured in terms of vehicle miles traveled, motorcyclists are about 15 times more likely than passenger car occupants to die in a motor vehicle crash and 4 times as likely to be injured. The percentage of impaired motorcyclists involved in fatal crashes has not declined in the past 10 years. The percentage of fatally injured operators who were improperly licensed remains high. Increasing motorcycle helmet usage is the single most effective way to prevent head injuries resulting from motorcycle crashes. Helmets are estimated to be 29 percent effective in preventing fatal injuries to motorcyclists, but the helmet use rate has been estimated at only 64 percent nationwide.

##### *Strategy*

NHTSA's goals are to increase helmet use to 80 percent and to reduce motorcycle-related fatalities and injuries by 5 percent by the year 2000. This will be accomplished through a comprehensive approach that works to prevent crashes, reduce injuries during a crash, and provide rapid response and better treatment for crash victims. NHTSA's comprehensive approach consists of developing, testing, and urging adoption of program initiatives to support rider education programs; increasing the proportion of motorcyclists who are properly licensed; reducing the number of motorcyclists operating while impaired; raising driver awareness about sharing the road with motorcyclists; increasing the use of protective gear, including motorcycle helmets; and maintaining a strong safety assurance program for compliance with Federal safety requirements for helmets. A recently initiated strategic planning effort for motorcycle safety will solicit input from traffic and motorcycle safety partners and develop a blueprint for motorcycle safety activities over the next 5 years. NHTSA will also increase outreach in motorcycle safety to include health and medical partners, foster closer collaboration with law enforcement, and develop materials to specifically target these groups and involve them in motorcycle safety efforts.

#### *Pedestrians*

##### *Problem*

In 1997, about 5,300 pedestrians were killed and an estimated 76,550 were injured in traffic crashes in the United States. On average, a pedestrian is killed every 97 minutes and is injured every 6 minutes in a traffic crash. Pedestrian fatali-

ties accounted for 86 percent of all non occupant deaths in 1996. Most deaths occur in urban settings, away from intersections, in normal weather, and at night. Over involved groups include males, children, and older adults. Almost half of pedestrian fatalities involve driver or pedestrian use of alcohol.

#### *Strategy*

The agency's goal is to reduce the pedestrian fatality rate to 2.0 and the injury rate to 30.6 per 100,000 people by the year 2000. In addition, the DOT seeks to reduce pedestrian and bicycle injuries and fatalities by 10 percent by the year 2000. A combination of public information, enforcement, engineering, and outreach strategies will be used to reach these goals. Pedestrian research to identify effective countermeasures will focus on older, younger, and culturally diverse pedestrians, as well as those who are alcohol impaired. Research also will be conducted to identify motorists who are likely to be involved in collisions with pedestrians and to develop suitable countermeasures for these motorists. Programmatic approaches will include the Partnership for a Walkable America, a national public-private effort committed to promoting the changes needed to make America more walkable; continued partnership with FHWA to develop training and technical assistance materials promoting pedestrian safety; and efforts to develop case studies of successful pedestrian programs and to identify strategies for increasing outreach to health care professionals, employers, and intergovernmental organizations.

#### *Bicyclists*

##### *Problem*

In 1997, 813 bicyclists were killed and 58,000 were injured in motor vehicle crashes. Almost one-third of cyclists killed in traffic crashes were 5 to 15 years old, and the fatality rate for this group of ages is nearly double the rate for all bicyclists. Alcohol involvement for drivers or bicyclists was reported in one-third of the traffic crashes that resulted in cyclist fatalities in 1997. Wearing a helmet is the single most effective countermeasure available to reduce head injuries and fatalities that result from bicycle crashes. However, helmet usage is very low; only 20 percent of bike riders wear a helmet.

##### *Strategy*

NHTSA's goal is to reduce bicyclist fatalities and injuries and increase bicycle helmet usage. The agency will use a combination of public information, legislation, enforcement, engineering, and outreach strategies targeted to both bicyclists and motorists. NHTSA will work closely with other Federal agencies, such as the FHWA, Centers for Disease Control and Prevention, Consumer Product Safety Commission, Department of Education, and national organizations, to ensure that these strategies are included in program development and are broadly disseminated. NHTSA will work with the National Bicycle Safety Network, a public-private partnership to improve bicycle safety and increase safe bicycle use; continue such educational efforts as "Ride Like a Pro" with the National Football League; develop technical assistance materials such as a how-to guide for organizing community bicycle safety events; work with national organizations to promote safe bicycling, including correct use of helmets; develop and test bicycle safety materials and approaches for use with at-risk youth in urban areas; and initiate development of a training program with Bicycle Law Enforcement Patrols to provide them with information and skills to educate communities about bicycle safety.

#### *Fatigue and Inattention*

##### *Problem*

Sleep apnea, insomnia, narcolepsy, and other sleep disorders have been associated with passenger and commercial vehicle crashes. Driver fatigue, drowsiness, and inattention may be symptoms of sleep disorders or other causes of insufficient or poor-quality sleep. Surveys show that most drivers have experienced episodes of drowsiness while driving. NHTSA conservatively estimates that in recent years fatigue and drowsiness have been factors in about 56,000 crashes annually, resulting in an estimated 1,550 fatalities and 40,000 injuries a year.

##### *Strategy*

NHTSA's strategy is to extend the understanding of the problem and educate motorists about the effect of sleep deprivation on driving behavior. NHTSA is partnering with the National Center on Sleep Disorders Research at the National Institutes of Health to identify the symptoms of sleep deprivation, high-risk groups, and a research agenda. Public education campaigns targeted at high-risk groups are underway. Over-the-counter and prescription drugs that may cause drowsiness may

be studied as well. In addition, NHTSA and FHWA are cooperating in laboratory and field research to study driver drowsiness detection devices and their potential to warn drivers in impending crash situations.

#### *Driver Licensing*

##### *Problem*

Road safety is threatened by unlicensed drivers who are unregulated and unaccountable. These include problem drivers whose licenses are suspended or revoked for serious violations such as aggressive driving, alcohol impairment, and hit-and-run incidents.

##### *Strategy*

Electronic data bases providing information on problem drivers can improve the decisionmaking process for State officials. License administrators depend on fast access to accurate driver histories, including the National Driver Register's index of unsafe drivers who have lost their license. Pinpointing problem drivers helps agencies monitor individuals' unsafe driving behaviors and is the key to successful adjudication and rehabilitation. Agency technical assistance to States and national organizations supports a number of initiatives, including detecting fraudulent licenses, standardizing and linking State data files, exchanging driver records among governmental and private organizations, providing technology support for testing and licensing, and fostering such innovations as graduated licensing for novice drivers.

#### *Older Driver Safety*

##### *Problem*

Physical dexterity and cognitive skills deteriorate with age, adversely affecting driving behavior. The Environment section of this plan indicated that the population of older people will increase sharply; thus, a greater number of older drivers will be on the road. As a group, older people are now over represented in terms of both driver and pedestrian deaths, on a per-mile basis. The per-mile fatality rate for older drivers is 16 times higher than the rate for drivers who are 25 to 65 years old. Although an older person involved in a motor vehicle crash is more likely to die than a younger person, because of increased frailty, older drivers have fewer crashes per licensed driver than do younger drivers. Without effective programs, older driver death and injury levels are expected to increase.

##### *Strategy*

NHTSA's strategy is to enhance the older driver's ability to drive safely. Research is refining our understanding of medical and functional factors that influence driving behaviors and crash involvement. One agency initiative focuses on technical assistance to States in applicant screening, testing and evaluation, and other procedures for regulating older driver licensing. Model procedures will be field tested to guide licensing decisions, including such innovations as closer monitoring of older drivers through retesting and tracking of driving history. Research will examine driver-vehicle interactions and how operational changes can enhance safe driving. Research is examining crash effects on older occupants, with the goal of increasing crash survivability. The ITS program and the new National Advanced Driving Simulator will provide research opportunities to improve crash avoidance capability for aiding older drivers. Strategies will also be developed to address issues surrounding older pedestrian safety.

#### *Young Drivers*

##### *Problem*

High-risk behavior and driving inexperience contribute to young drivers' over involvement in crashes. As pointed out in the Environment section, the future growth of young drivers will be greater than that of the total population, thus continuing their over representation in crashes. In 1997, almost 5,700 drivers ages 16 to 24 were killed in traffic crashes, including 2,405 killed in alcohol-related crashes. Another 597,600 drivers were injured, including over 63,000 in crashes with alcohol involvement. A significant portion of young drivers in fatal crashes have invalid licenses, and their driving histories reflect license suspension or revocation. Alcohol impairment and failure to use seat belts are also frequently observed. Seventy-one percent of teens killed in car crashes were not wearing seat belts.

##### *Strategy*

The agency's strategy consists of supporting State implementation of improved driver education and driver licensing procedures. Increasing seat belt use rates will improve crash protection for young drivers and occupants; therefore, education pro-

grams targeted to this population are being developed. Improving education about the effects of alcohol on driving behavior is a major priority, combined with enforcement techniques and programs to keep youth from obtaining alcohol. Legislation will be supported, including graduated licensing (i.e., progressing through stages before full licensure). The agency will work with States to identify strategies to enforce minimum drinking age laws, youth-specific sanctions, new detention procedures, and comprehensive community youth programs. The Transportation Equity Act for the 21st Century benefits youth traffic safety by providing incentive grants to reward States that enact zero tolerance, graduated licensing, nighttime driving restrictions, and programs to prevent drivers under age 21 from obtaining alcoholic beverages.

#### *Crash Avoidance*

##### *Problem*

Improvements in the crash-avoidance capabilities of existing and new vehicle systems can reduce the likelihood of collisions. These improvements could enhance the interaction of the driver with the vehicle, deliver more effective warnings to drivers about impending crashes, and enhance driver vision through improvements in current systems or advanced technologies, such as automatic cruise control, rear-end collision-avoidance systems, and lane change systems. The agency wants to identify changes to vehicles that will be the most effective at reducing total crashes.

##### *Strategy*

The agency continues to focus its crash-avoidance research, regulatory, and safety assurance activities on reducing the number of collisions through compliance testing; investigations of potential safety defects; and improvements in direct and indirect visibility, braking, and directional and rollover stability, as well as vehicle lighting, signaling, and marking. The compatibility of driver-vehicle interfaces to improve future vehicle designs, which is discussed in the Intelligent Vehicle Initiative, is another major emphasis of research. The agency will also coordinate with the FHWA on its research involving ultraviolet and fluorescent lighting.

#### *Intelligent Vehicle Initiative*

##### *Problem*

Approximately 75 percent of the crashes that occur annually are of three types: rear-end, intersection, and road-departure collisions. In these situations, innovations are needed that enable a driver to be more aware of a potential crash and exert more control to avoid a collision. Part of the challenge is developing and integrating advanced sensing, on board computer, and driver interface technologies into vehicle safety systems.

##### *Strategy*

The agency's goal is to reduce the total number of collisions annually by approximately 1 million within the next 10 to 20 years by introducing vehicle systems to avoid the three most common types of crashes. Since 1991, the agency has been undertaking research to develop tools to better understand driver-vehicle interactions, define specific collision problem areas and causal factors, develop performance guidelines for possible remedies, facilitate the commercial development of promising systems, and assess the safety of systems that enhance mobility and productivity. The rear-end collision-avoidance activities are the highest priority and nearer to commercial application. The agency will shift its emphasis from narrowly focused projects to larger issues of system capability, usability, and benefits. As part of this effort, a demonstration vehicle will be developed that can be used to integrate several collision-avoidance systems and for driver acceptance tests.

#### *Heavy Trucks Problem:*

##### *Problem*

In 1997, a total of 5,355 fatalities and 133,000 injuries resulted from crashes involving heavy trucks. Of the fatalities resulting from crashes involving large trucks in 1997, 78 percent were occupants of another vehicle and 8 percent were nonoccupants. Among the key causes of heavy truck crashes are insufficient braking capability, loss of control, driver fatigue, and poor visibility. Safety defects in heavy trucks also contribute to crash injuries and fatalities.

##### *Strategy*

NHTSA will work closely with the FHWA on heavy truck safety issues and projects such as "Share the Road," that educate drivers about driving safely around large trucks. NHTSA will continue its research, regulatory, and public information



activities in such areas as anti-lock braking systems, electronically controlled braking, rollover countermeasures, truck visibility, truck underride, and drowsy driver detection and monitoring. In 1996, over 70 percent of fatal crashes involving large trucks and passenger vehicles involved one or more behavioral errors by passenger vehicle drivers. In addition, the agency will review its data systems to identify safety-related defect trends in heavy trucks.

#### *Safety Assurance*

##### *Problem*

Two factors that can contribute to avoidance of crashes and protection from fatality or injury are manufacturer compliance with applicable Federal safety standards and resolution of safety-related defects in motor vehicles. For these reasons, the agency conducts a variety of testing and investigations to ensure the safety of vehicles in use. Since inception of the agency's Safety Assurance Program, over 14 million vehicles and 24 million equipment items have been recalled for non-compliance and over 216 million vehicles and 34 million equipment items have been recalled to remedy safety defects. Another concern is altering of odometers in used vehicles, which has led to massive consumer fraud. Although numerous agency investigations have been referred to the U.S. Department of Justice for criminal prosecution, a significant problem remains.

##### *Strategy*

The primary goal of the Safety Assurance program is to identify motor vehicles and motor vehicle equipment that fail to comply with Federal Standards or that contain safety-related defects and ensure that the public is notified of these safety problems so they can be corrected. The program also seeks to test vehicles to ensure compliance with safety regulations. For example, the agency has initiated vehicle testing in connection with new standards for depowered air bags and other occupant protection measures. NHTSA also ensures that imported vehicles conform with all applicable Federal standards. Outreach to State motor vehicle agencies and other organizations will be emphasized to increase the reporting of defect-related problems through the agency's Auto Safety Hotline.

#### *School Buses*

##### *Problem*

From 1977 to 1986, an average of 12 school bus occupants and 47 pedestrians (under age 19) were killed each year in school bus crashes. From 1987 to 1996, an average of 10 school bus occupants and 25 pedestrians were killed each year in school bus crashes, indicating a decline when compared to the same numbers for the 1977 to 1986 period. Although the number of fatalities and injuries is relatively small considering that school buses travel about 4.3 billion miles annually, a school bus crash is a serious and emotional safety issue. School bus crashes are a major concern for parents, the public, and safety organizations, because the health and safety of children is at stake.

##### *Strategy*

School buses continue to be the safest form of highway transportation. Safe travel for children on school buses has always been a high priority for the agency. All new school buses are required to meet a number of specific Federal Motor Vehicle Safety Standards, including requirements for emergency exits, seating, fuel systems, roof structure, body joint strength, flammability of interior materials, mirrors, and stop signal arms. The agency will initiate an extensive 2-year research program to examine current crash data for school buses; evaluate alternative occupant protection systems, and based on research findings, propose the next generation of occupant protection requirements for school buses. NHTSA will continue to work in cooperation with its partners to develop a policy for safely transporting preschool-age children in school buses. This policy can then be added to the National Guidelines for School Transportation. NHTSA has completed development of a training program for school bus drivers and is distributing it to school transportation managers. In addition, the agency will support development and implementation of community-based demonstration programs to address the high incidence of motorists illegally passing school buses stopped to load and unload children.

#### *Road Infrastructure*

##### *Problem*

Approximately 28 percent of all traffic fatalities from 1974 to 1994 were the result of collisions with fixed objects, such as trees, embankments, guardrails, and utility

poles. Key causal factors in these collisions are driving errors associated with excessive speeding, evasive maneuvers, and inattention.

#### *Strategy*

The agency will coordinate its activities with the FHWA in priority areas, such as speed management, work zone safety, run-off-road, and public outreach and education to prevent fatalities and injuries from these types of collisions. FHWA will deal with roadway design, maintenance, and operations, while NHTSA will coordinate with FHWA on problem identification, law enforcement, and outreach and education associated with road infrastructure and traffic control devices. Among the projects to be undertaken is a large scale study to determine the crash risk of speeding.

#### *Rail Grade Crossings*

##### *Problem*

NHTSA's fatality data system reports that in 1997, 389 people were killed and 1,740 were injured in the United States in collisions with trains at highway rail crossings. Key causal factors in these collisions are driving task errors resulting from obstructed vision, misjudgment, violation of signals and signs, or deliberately unsafe acts.

##### *Strategy*

An intermodal task force identified six initiatives that Federal, State and local governments and railroads can take to improve rail crossing safety. They are: increased enforcement of traffic laws; safety improvement reviews of rail corridor crossings; increased public education and promotion of Operation Lifesaver, safety at private crossings, data gathering and research, and trespass prevention. NHTSA is supporting the goals of the Federal Railroad Administration and FHWA in the expansion of relevant sections of the Model Commercial Driver License Manual and will seek to increase attention to rail crossing safety in driver testing for commercial driver licenses.

#### *NHTSA 1994—1998 Accomplishments Timeline*

##### 1994

- Strategic Plan Rolled-Out, Agency Repositioning Begins

##### 1995

- Safe Communities Injury Control
- Expanded Auto Safety Hotline
- Intelligent Transportation Systems
- Partners in Progress—Alcohol Safety
- Patterns for Life—Child Safety
- Pilot Agency—Government Performance and Results Act

##### 1996

- National Advanced Driving Simulator
- EMS Vision for the Future
- Section 402 Performance-Based Safety Grants
- National Transportation Biomechanics Research Center
- Announce Comprehensive Strategy to Improve Airbag Safety and the Development of Advanced Restraint Systems

##### 1997

- President's Safety Belt Initiative (Buckle Up America Campaign)
- Proposed Universal Child Seat Attachments (UCRA)
- President's Initiative on Drugs, Driving and Youth
- Crash Injury Research and Engineering Network (CIREN)
- Moving Kids Safely
- Expanded New Car Assessment Program

##### 1998

- Safety City Website [<http://www.nhtsa.dot.gov/kids>]
- Passage of Transportation Equity Act for the 21st Century
- Improved Head Impact Protection Rule
- Improved Truck Safety—braking and rear impact crash guards
- Issue Advanced Airbag Rule

#### *Biomechanics*

##### *Problem*

Biomechanics is the study of forces and motions acting on the human body and its response to them. It is essential to expand biomechanical understanding of the

automotive injury process and develop technologies that will reduce impact injuries. Using this knowledge is critical to the agency's efforts to develop effective safety standards that improve vehicle crashworthiness.

#### *Strategy*

In 1997, the Department of Transportation created the National Transportation Biomechanics Research Center at NHTSA. In addition, the agency established the Crash Injury Research and Engineering Network (CIREN) to study significant crash conditions through computer-linked, detailed, hospital-based injury studies. The agency will: expand its effort to define physical conditions and human consequences of real-world crashes, gain a detailed understanding of the forces and motions the human body experiences in a crash and their relationship to the extent and severity of resulting injuries, develop computer models of the human body that can simulate human impact response and estimate the extent and severity of expected trauma, and construct dummy components and other mechanical trauma assessment devices that evaluate human risk. Special emphasis will be placed on understanding the biomechanics of pediatric injuries and developing 3- and 6-year-old child dummies, as well as a small female dummy.

#### *The Crash Injury Research and Engineering Network*

- U. of Michigan, Ann Arbor, MI
- Harborview Medical Center, Seattle, WA
- San Diego County Trauma System, San Diego, CA
- U. of Medicine & Dentistry, NJ
- U. of Maryland, Baltimore, MD
- Children's National Medical Center, Washington, DC
- William Lehman Injury Research Center, U. of Miami, FL

#### *Seat Belts*

##### *Problem*

Increasing seat belt use from the 1996 level of 68 percent to the Presidential goal of 90 percent would prevent an estimated 5,536 fatalities, 132,670 injuries and save \$8.8 billion. However, seat belt use remains low among such groups as young males and rural road users, and the rate of belt use has been stagnant in recent years. The rate increased only slightly, to 69 percent, in 1997. Much of this non use is attributed to part-time belt users who perceive a low crash risk in some situations. An estimated 5 to 10 percent of the population resists using seat belts under any conditions.

##### *Strategy*

Increasing use of safety belts will have such a profound effect on fatalities and injuries that President Clinton established a national objective of increasing seat belt use to 85 percent by the year 2000 and 90 percent by the year 2005 in the Presidential Initiative for Increasing Seat Belt Use Nationwide. The initiative involves (1) building public-private partnerships; (2) enacting strong State legislation; (3) embracing active, high-visibility law enforcement; and (4) conducting well-coordinated, effective public education. Experience indicates that when these four elements exist together, they result in increased levels of belt use. This initiative will be continued through 2005, supplemented by periodic, week-long, nationwide enforcement and media efforts, such as "Operation ABC 1998" and "Buckle Up America!" Week (conducted around Memorial Day 1998). Significant seat belt use increases resulted from that effort and similar events are being scheduled over the next several years to help achieve seat belt use goals. In addition, the agency will regularly review its data systems to identify potential safety-related defect trends in seat belts and continue to place strong emphasis on compliance of seat belts with applicable safety standards.

#### *Child Safety Seats*

##### *Problem*

In 1996, the number of child occupant fatalities was 644. About 50 percent of children under age 5 who died in crashes were unrestrained. Of the remaining 50 percent, 26 percent were in an adult seat belt which does not provide effective protection for most children under age 5. Use of child safety seats declines sharply as the age of the child increases, although the reasons for this are not well understood. Other children were in child restraint systems that were not used properly. Incorrect use of locking and chest clips, inappropriate use of harness straps, and child seats facing the wrong direction are examples of seat misuse.

### *Strategy*

As a part of the Presidential Initiative for Increasing Seat Belt Use Nationwide, a goal was set to reduce the number of child occupant fatalities 15 percent by 2000 and 25 percent by 2005. The agency will establish State and regional networks to support the national campaign to increase the correct use of child safety seats and develop, produce, and disseminate child passenger safety educational materials. The agency will continue research to support the rulemaking on child/air bag interaction and publish a final rule on universal child restraint attachments. In addition, the agency provides assistance to States, communities, and private sector and national safety organizations and supports special programs to promote child safety seat use. The agency will also regularly review report data systems to identify safety-related defect trends in child safety seats. The agency will continue to provide technical assistance to State, county, and municipal law enforcement agencies, with the ultimate goal of training all patrol officers, troopers, and deputies in the enforcement of child passenger protection violations. Also, the agency will work with the States to help achieve the child passenger protection criteria of the new Section 405 incentive grant program. This will enable States to acquire additional funds to expand their child safety seat promotional efforts and will put in place improved laws and educational programs that will boost correct seat usage. The agency will continue to place strong emphasis on the compliance of child seats with safety standards and to investigate seats that have alleged safety defects.

### *Advanced Restraint Systems*

#### *Problem*

The current generation of air bags is a proven safety tool for offering supplemental protection to vehicle occupants during significant crash events. Investigations have nonetheless confirmed that a relatively small number of crash situations (e.g., unrestrained or improperly restrained children and small adults) can result in fatality or injury.

#### *Strategy*

The agency's goal is to improve the protection offered by air bag, seat belt, and child safety seat systems and to reduce the number of people seriously injured by air bag deployment. NHTSA is pursuing a comprehensive strategy to improve air bag safety. This includes action to require introduction of advanced air bags. Other actions include: developing tests for different crash situations, testing and evaluating advanced systems, regulatory actions to permit the installation of on-off switches in authorized cases, and rulemaking actions to enable manufacturers to quickly develop and produce redesigned air bag systems, air bag warning labels for vehicles and child seats, and expanded crash investigations. Public information and education are conducted through partnerships involving campaigns, coalition efforts, and public awareness initiatives. Safety belt use, universal child restraint anchorage systems, correct use of child seats, rear seating for children, and a strong safety assurance program of compliance and defect investigations have also been key elements of the strategy.

### *Crashworthiness Problem*

#### *Problem*

Approximately 80 percent of all fatalities are the result of collisions in which the front, left, and right sides of vehicles, are the initial points of impact. Rollover crashes also substantially contribute to fatalities on the nation's highways. These types of collisions can be severe enough to threaten the integrity of vehicle structures, in turn compromising the vehicles ability to afford protection to occupants from fatal and serious injuries. Vehicle structures must be able to manage crash energy to prevent occupant compartment intrusion, ejection of passengers, and injuries from occupant impact with interior surfaces. Structural crash performance must also be compatible with occupant restraint systems.

#### *Strategy*

NHTSA's strategy consists of crashworthiness research, vehicle performance regulations, enforcement of Federal safety standards, and consumer information on vehicle safety. Research, regulatory, and safety assurance initiatives address advanced occupant protection in various crash modes, including frontal, side and rollover crashes (which result in the majority of deaths and injuries). Priorities include roof crush resistance, advanced restraints, vehicle-to-vehicle collision compatibility, aggressivity of interior surfaces (including head impact protection), and offset frontal crash requirements. New international harmonization research on vehicle safety is underway. Consumer information on vehicle structure safety is provided through

such programs as the New Car Assessment Program (NCAP), which tells the public how similar makes and models compare in safety performance during crash tests.

#### *Road Infrastructure*

##### *Problem*

As mentioned in the pre-crash Environment Section, approximately 28 percent of all traffic fatalities from 1974 to 1994 were the result of collisions with fixed objects, such as trees, embankments, guardrails, and utility poles. Key factors in these collisions include the effects of roadway characteristics and conditions on the driver and vehicle performance and the physical properties of highway objects.

##### *Strategy*

The agency will continue to coordinate with FHWA on traffic control device issues, such as installing and upgrading rumble strips, breakaway poles, and roadside barriers; widening travel lanes and shoulders, and improving pavement skid resistance.

#### *Acute Care and Rehabilitation*

##### *Problem*

Motor vehicle crash injuries place a significant burden on the nation's health care resources, accounting for about 4 million emergency room visits a year and about 50 percent of all trauma center admissions. Preliminary estimates show that the public pays an increasingly larger share of the costs of care as injury severity increases. Nearly half the cost of long-term rehabilitation care for people injured in motor vehicle crashes is paid for by public assistance. Public assistance becomes necessary when the upper limits of insurance and personal savings have been reached.

##### *Strategy*

Acute care and rehabilitation are primarily the responsibility of the health care industry. NHTSA's goal is to engage in partnerships with members of this industry and provide them the information they need to reinforce positive driver behavior at a time when the individual is likely to absorb these messages. This effort is accomplished via outreach to such organizations as the American Academy of Pediatricians, the American College of Emergency Medicine, and the Emergency Nurses Association. The information needed to develop the messages comes from a number of sources, including the agency's efforts in trauma research (the CIREN program), data linkage (the Crash Outcome Data Evaluation System [CODES] program), and the agency's efforts to develop injury outcome measures, including economic costs and other measures such as the Functional Capacity Index.

#### *Fires*

##### *Problem*

Fire in a crash is often associated with a breach in the integrity of a vehicle's fuel system. Although relatively infrequent, vehicle fires can have devastating consequences on fatalities and injuries. In 1995, fire occurred in 15,000 motor vehicle crashes, or 0.1 percent of total traffic crashes. Fire was also present in over 1,550 fatal crashes and 4,000 injury crashes.

##### *Strategy*

NHTSA's approach to preventing crash fire or mitigating its effects involves research, regulatory, and safety assurance initiatives focused on vehicle fuel system crashworthiness, flammability of materials in the vehicle interior, vehicle crash-and-burn tests, and evaluation of vehicle fluids and electrical systems. Fire suppression technology is also under consideration. Regulatory initiatives are under review that focus on modification of vehicle fuel systems to upgrade fuel containment in crashes and reduce flammability characteristics of vehicle materials.

#### *Automated Collision Notification*

##### *Problem*

Although only 24 percent of crashes occur in rural areas, these crashes account for 59 percent of highway deaths. Delay in delivering emergency medical services is one of the factors contributing to the disproportionately high fatality rate for rural crash victims.

##### *Strategy*

The agency is testing and evaluating the Automated Collision Notification (ACN) program as a key element in the NHTSA Intelligent Transportation System (ITS) research and development program. The ACN initiative is designed to reduce the

time between the crash and the delivery of definitive pre-hospital medical care and other emergency services to the victims. This program promises to be especially beneficial for unwitnessed, single-vehicle crashes in rural areas.

#### *Emergency Medical Services*

##### *Problem*

Many of the people injured in motor vehicle crashes require pre-hospital care and transport to a hospital emergency department or a trauma center. About 20 percent of all EMS responses are motor vehicle related.

##### *Strategy*

NHTSA has developed an EMS Agenda for the Future (and an implementation guide) in cooperation with the EMS community to provide an overall direction to the nation's EMS program. NHTSA's goal is to enhance the performance of national emergency medical systems by contributing national leadership, facilitating establishment and maintenance of national standards, and providing resource information, materials, and research on EMS systems. The EMS program develops and distributes National Standard Curricula to educate pre-hospital care providers, including emergency medical technicians, dispatchers and ambulance drivers. These national standards are adopted by States as the regulatory standards of care for emergency medical technicians. The program also provides support in specific technical and system support areas. Examples include training programs on data management and quality improvement, peer assessments of State EMS systems, and public awareness campaigns. The agency is also developing partnerships with the telecommunications industry to facilitate the availability of enhanced "911" service nationwide for both conventional landwire telephone systems and wireless systems.

#### MOBILITY, ECONOMIC GROWTH, AND NATURAL ENVIRONMENT

#### *Mobility*

##### *Problem*

The environmental analysis indicated that the population of people with disabilities will continue to increase. NHTSA's goal is to promote mobility and safety for people with disabilities by addressing vehicle safety and by providing safety information to manufacturers and the public. People who are physically challenged may require special equipment and safety modifications for using a vehicle. NHTSA estimated for 1995 that 383,000 vehicles had adaptive equipment, such as hand controls, steering controls, and joystick steering.

##### *Strategy*

NHTSA will continue research, rulemaking, safety assurance, and consumer information activities in several areas to enhance safe mobility for people with disabilities. The agency is considering a rulemaking action concerning wheelchair lifts on motor vehicles and will look into developing a brochure or other consumer information materials for people buying modified vehicles or items of adaptive equipment. NHTSA will conduct research to better understand the crash-avoidance and crash-worthiness characteristics of mechanical hand controls and initiate rulemaking actions, if appropriate. The agency will seek to address other critical safety issues for the disabled population with respect to the use of motor vehicles as they arise.

#### *Economic Growth and Trade*

##### *Problem*

The Department's Strategic Plan promotes and implements a strategic goal designed to advance the country's economic growth and competitiveness, both domestically and internationally, through an efficient, flexible transportation system. Achievement of this goal takes many forms, including: reducing economic cost; ensuring movement of goods; reductions in time of delivery of people, goods, and services to their destinations; supporting economic deregulation; remaining competitive in all markets; soundness in major transportation investments; and increasing education and public awareness in the transportation field. Traffic safety problems associated with unsafe passenger and commercial vehicles, human behavioral issues, and roadway environment undercut all elements central to successful economic growth and trade. Failure to address and solve these safety issues has a direct negative effect on many of the key elements of our economic life. The resulting loss in human resources is enormous and enduring, as is the direct societal cost for our country (now exceeding \$150 billion annually). The drain of this public health problem on both health care and governmental systems is significant and injurious to the general economic well-being of our country.

### *Strategy*

The mission of the agency is to reduce traffic crashes and the death and injuries associated with them and to reduce economic losses. A balanced strategy is planned, focused on both vehicle and behavioral safety problems. This will be achieved through initiatives designed to improve vehicle crashworthiness, occupant protection, and crash avoidance. Public information to aid consumers in selecting safer cars is planned. Crucial behavioral safety issues, such as driving while impaired, will be addressed. Education and outreach are planned to increase public awareness of all aspects of the problem, including various costs for the transportation and health systems.

### *Human and Natural Environment*

#### *Problem*

As mentioned in the Environments Section, the next generation of vehicle designs will be driven by the need to reduce emissions. NHTSA must ensure that the new vehicle designs meet safety standards and that their crashworthiness is not compromised by the use of lightweight materials. Although the weight of new electric vehicle designs is similar to that of a midsize passenger car, ultralight and ultrastiff structures and unique geometries are being used that might affect the overall safety of the fleet. Passenger vehicle designs employing hybrid fuel technologies are being considered; when compared to current designs, these technologies may result in weight reduction of up to 40 percent, thus creating safety problems in multi-vehicle crashes.

#### *Strategy*

NHTSA will continue to promote fuel efficiency through the Corporate Average Fuel Economy (CAFE) standards. NHTSA will continue to conduct research with FHWA and other agencies engaged in the development of next-generation vehicles and fuels, including the Partnership for a New Generation of Vehicles (PNGV). An analytical model that can be used to evaluate the crashworthiness of target vehicles in the PNGV research program will be developed. The agency will use rulemaking to ensure that electric passenger vehicles meet the safety performance criteria of Federal Motor Vehicle Safety Standards (FMVSS), and to deal with any safety issues of power systems and other characteristics of these vehicles.

## PROGRAM DELIVERY

### *Introduction*

This section of the plan highlights the major delivery systems used by NHTSA for disseminating its safety products and customer services. NHTSA's ultimate customer is the American public. As one way to leverage agency resources and maximize distribution of its products and services, NHTSA has developed strategic alliances and partnerships with States, local communities, the business sector, health and medical fields, manufacturers, safety advocates, and other national and local organizations that have similar missions.

The majority of NHTSA's efforts, while targeted at the American public, are implemented through the agency's partners, all of whom have unique organizational characteristics and strengths. Because of these unique characteristics and strengths, the delivery systems NHTSA uses to work with partners differ by type of partner. These systems are highlighted in the next paragraphs.

#### *Public Information and Education (PI&E)*

Increasing awareness of the American people about safety behaviors needed to reduce traffic crashes, death, and injury is the primary objective of NHTSA's public information and education communications. These safety messages are delivered to the public through a variety of means, including the Auto Safety Hotline, technical assistance, NHTSA's Web site, exhibits, public service announcements, manuals, tool kits, brochures, posters, and publications. National public information campaigns are aimed at the most urgent national safety needs, including encouraging people to wear safety belts, placing kids in child safety seats, deciding not to drive after drinking, avoiding aggressive driving actions, and obeying speed limits. These messages also play a key role when used as a communications strategy to support a new countermeasure, such as a new primary seat belt law and increased enforcement of occupant protection laws.

#### *Technical Assistance*

NHTSA works continually with States, communities, and safety organizations to develop new products and services to make behavioral safety programs more effective.

tive. The State highway safety offices are key partners that work closely with the agency's regional offices in the process of developing and implementing new products and services. Demonstration grants and technical assistance to States and communities help to facilitate testing and evaluation of new programs. The purpose of technical assistance is to refine each new program, demonstrating its benefits to other States and, thereby, provide States with the latest strategies to address national highway safety problems.

#### *Training*

NHTSA training provides powerful strategies for saving lives. The workshops, courses, videos, and curricula focus on a wide variety of topics, from enforcing occupant protection laws, to adjudicating impaired-driving cases, to developing and running effective highway safety programs. Training is among the agency's highest priorities for upgrading all facets of safety program development, implementation, management, and assessment.

#### *State Grants*

NHTSA administers performance-based Section 402 formula grants and safety incentive grants to help States undertake statewide and local programs aimed at reducing highway fatalities and injuries. Under Section 402, States set their own goals, select appropriate programs, and as part of the performance-based agreement, evaluate and report on their results. Section 402 grants are the primary Federal means for providing highway traffic safety behavioral technical assistance to States and local communities and are based on national priorities such as alcohol, safety belts, traffic law enforcement, and roadway safety. Over the life cycle of programs begun with Section 402 grants, States and municipalities provide the majority of resources to continue programs beyond their startup phases.

The incentive grants administered by NHTSA reward States for implementing laws and programs proven to be highly effective in reducing crashes, death, and injury. Incentives have traditionally served as a key mechanism for getting particularly desirable high-impact highway safety strategies into operation nationally. An expanded set of incentives is a key feature of the Transportation Equity Act for the 21st Century. It rewards States with grants for complying with criteria that improve alcohol safety, occupant protection, and State safety data systems.

#### *Safe Communities*

Safe Communities is an injury prevention and control program currently in over 400 locations and slated for a total of 600 sites by 1999. NHTSA's goal is to increase the number of sites to 1,000 and enhance program capabilities of existing sites. We will also expand the Intermodal Safe Communities initiative. Safe Communities is organized around the principle that local communities are best able to identify their unique safety problems, prioritizing problems, and recruiting appropriate community resources to solve problems. NHTSA's role is to offer national leadership to States, communities, and national organizations, and provide materials, technical assistance, and best practices in the form of training, a service center, a Web site, newsletters, and other materials. Information for these materials is being obtained in part from a demonstration and evaluation program being implemented in seven communities.

#### *National Organizations*

NHTSA develops strategic alliances with national organizations (e.g., private sector, nonprofit associations) that have complementary or similar missions. The agency seeks to work with national organizations having strong ties to groups of people that can implement or influence the implementation of NHTSA programs and services at national, State, and local levels. Strategic alliances offer a number of benefits to NHTSA and its customers: leveraging program strengths and resources of organizations with similar missions; broadening channels for program and message delivery; improving communication, understanding, and cooperation among organizations; and increasing the agency's ability to better understand and reach target populations. These benefits enable NHTSA and its partners to provide more cost-effective delivery of safety products and services to the public.

#### *Safety Performance Standards*

Automakers, safety equipment suppliers, and the insurance industry are among NHTSA's partners in helping to provide the public with safer vehicles. The agency's approach is to issue regulations that establish minimum performance levels for vehicle crashworthiness and crash avoidance, with the expectation that manufacturers will take steps to surpass minimum safety levels. In accomplishing its statutory requirements, NHTSA is moving beyond the role of simply being a regulator and is



instead enhancing vehicle safety through new techniques of voluntary standards and negotiated rulemaking. The agency's goal is to partner with industry to ensure faster, more effective delivery of new vehicle safety features.

#### *Consumer Information*

The American public needs information to help them compare the safety performance of comparable vehicles during the process of buying a vehicle, and NHTSA is responding to that need. The agency's New Car Assessment Program (NCAP) provides information on crash test ratings for occupant crash protection of popular makes and models, thus strengthening market incentives for safer cars. The agency also plans to develop consumer information on previously owned vehicles. In addition, the agency is providing a broader range of vehicle safety information on the availability of advanced safety features, proper use of such safety features as ABS brakes and head restraints, and child passenger safety features.

#### *Safety Assurance*

The agency's compliance testing ensures that the benefits of Federal safety standards reach the American public. Investigation and resolution of potential safety defects, based primarily on motorist complaints to NHTSA through the Auto Safety Hotline and the Internet, also help to reduce risks. The agency's goal is to ensure that all instances of noncompliance and defects in motor vehicles and equipment are remedied, thus creating a safer environment for travel.

#### *Research and Development*

NHTSA's research products focus on changing driving behavior, evaluating safety programs, improving vehicle safety, and increasing injury mitigation. NHTSA data and research are used by other researchers, State and local governments, safety advocates and the private sector. Dissemination of research is aided through relationships with vehicle manufacturers and suppliers, research centers, medical and injury professionals, university researchers, and national and international vehicle safety organizations. Research findings are used by NHTSA and its partners to develop safety products and services for the public. The focus of NHTSA's research is increasingly intermodal, emphasizing the need for improved safety in all surface transportation modes.

#### *Safety Data Systems*

NHTSA is the leading national resource for providing the public, safety partners, and all other public and private entities with national data and analyses on traffic crashes, death and injury. This information is crucial for understanding safety trends, designing strategies to combat problems, and evaluating program impact. The foundation of NHTSA's data system consists of the Fatality Analysis and Reporting System (FARS) and the National Automotive Sampling System (NASS), plus the State Data System, Special Crash Investigations, and other specialized crash and injury information files.

A major goal is to acquire better information about injuries resulting from traffic crashes. NHTSA's new CIREN program creates injury data links with hospital trauma centers, a critical resource in allying medical and engineering professions to study injury prevention. The National Transportation Biomechanics Research Center serves as the central entity to develop and disseminate to our partners new insights into how crash forces affect human bodies. The agency's CODES Program is offering startup grants to States interested in linking crash and medical treatment files. This data enhancement allows the recovery of crash victims to be tracked, and for the first time, shows States the true monetary cost of injuries when people fail to use occupant restraints.

#### *International Policy*

NHTSA's international policy focuses on the identification, development and adoption of best practices from around the world concerning vehicle safety regulatory and research programs as well as traffic safety behavioral policies. One goal of the agency is, to the extent consistent with improving vehicle safety in the United States, to minimize divergences in vehicle safety standards (i.e., promote harmonization) in the global marketplace by coordinating research and assessing alternative regulatory approaches used in other countries. Achieving this goal will expedite research and implementation of regulatory measures, improve overall vehicle safety and contribute to increased economic efficiency and growth. Another goal is to coordinate with other countries in generating and gathering data regarding efforts to address behavioral issues such as seat belt use, drunk driving and pedestrian safety, to evaluate ongoing programs and learn from their experiences. Finally, the agency provides technical assistance to countries that are establishing vehicle and

traffic safety programs. Motor vehicle crashes are a leading cause of injury and death to US citizens traveling abroad, especially in countries where safe vehicle and traffic environments are yet to be developed. Since the United States is at the forefront of automotive safety technology and NHTSA is a world leader in the area of vehicle and traffic safety, it is natural and appropriate for NHTSA to play this role.

#### *Corporate Management Strategies*

NHTSA undertakes corporate management initiatives to enable it to more effectively and efficiently meet strategic goals. The agency is committed to aligning its activities with the management strategies outlined in the Department's 1997-2002 Strategic Plan. The six management strategies are: ONE DOT; Human Resources; Customer Service; Research and Technology; Information Technology; and Resource and Business Processes Management.

##### *One Dot*

The goal of ONE DOT is to create an effective decisionmaking architecture for the 21st Century Department of Transportation. NHTSA is taking an active leadership role in intermodal support of safety and other goals. NHTSA will contribute, for example, through its efforts to establish intermodal Safe Communities, colocate regional offices, and take a leadership role in intermodal task forces addressing safety problems.

##### *Human Resources*

The agency seeks to develop a diverse and highly skilled workforce that is knowledgeable, flexible, efficient, and resilient. New policies and practices that foster learning and development, such as participation in cross-functional teams and competency-based approaches to leadership development, will be encouraged. The agency will continue to promote diversity and ensure that the workforce reflects the national workforce. It will improve career opportunities for women and minorities by eliminating any artificial barriers to advancement and full contribution by all employees. Alternative approaches to a performance management system will be evaluated and steps will be taken to link performance to the Department's strategic goals. The use of awards and recognition for innovation, cost cutting, and customer service will be encouraged.

##### *Customer Service*

NHTSA will create a customer-focused environment by encouraging communication, quality service, and innovation. NHTSA activities that address customer needs for information include the New Car Assessment Program, the Auto Safety Hotline, and the Internet Web site. These and other customer service activities will be improved to be more accessible and useful to customers. Using published customer service standards as a benchmark, the agency will use feedback from surveys, letters, and other means to improve service delivery.

##### *Research and Technology*

The agency is committed to enhancing its research agenda through intermodal planning and cooperation on useful technological innovations, partnerships, studies, and education. The agency will participate in the creation of an integrated transportation research and development plan for the Department. NHTSA will contribute to meeting the goals of the National Science and Technology Council Committee on Transportation through research on information infrastructure issues for smart vehicles and operators, accessibility for aging and transportation-disadvantaged populations, and next-generation motor vehicle designs. The agency will foster cutting-edge research in human performance and behavior by developing innovative research tools that offer new opportunities for collaboration with other Federal agencies, institutes of higher learning, and the private sector.

##### *Information Technology*

The agency uses information technology to improve mission and process performance by employing systems that are secure, reliable, compatible, and cost effective. NHTSA will take actions to reduce the paperwork burden on the public, expand access to data, and undertake internal improvements to enhance information technology work processes. The agency will continue to take advantage of new tools, such as the Internet and teleconferencing, to improve communication and information exchange between its partners and the public. NHTSA will also ensure that existing information technology systems are year-2000 compliant.

##### *Resource and Business Process Management*

NHTSA will foster innovative and sound business practices that ensure all operational programs provide the best service at the least cost to meet public needs.

These practices are needed to ensure that the agency's resources are used in the best ways to advance its goals. The agency will build on recent efforts and continue to encourage the adoption of continuous improvement practices in all aspects of its operations. The agency will develop and use an array of internal measures that provide a balanced evaluation of progress toward improving the quality, timeliness, cost, and productivity of work processes. NHTSA will continue to improve by focusing on enhancing internal administrative processes for budgeting, acquisition and grants, and regulatory management.

#### APPENDIX A—GPRA IMPLEMENTATION

The Government Performance and Results Act of 1993 requires Federal agencies to become more accountable to the American public. NHTSA's implementation of GPRA is demonstrated in this strategic plan. This appendix describes in greater detail the agency's views on performance measurement and the ways in which NHTSA coordinates with other Federal agencies. A schedule of significant upcoming program evaluations is also provided.

Since 1994, NHTSA has been a pilot agency for implementing GPRA and has produced annual performance plans and reports. The President's Office of Management and Budget designated NHTSA as 1 of only 10 "exemplar" pilots because of its use of outcome-oriented measures. The agency was able to achieve this recognition, because it has invested significant resources in data collection and analysis. In addition, the agency has integrated performance planning with its budget process and linked program measures to intermediate outcomes and the agency's overall safety outcomes.

##### *Performance Measures*

The agency uses a three-level hierarchy of measures to assess its performance. NHTSA tracks these measures annually through its performance plans and reports. The agency has transformed the budget into a performance-based document by integrating the outcome measures of the performance plan with the output measures of the programs.

At the top of the hierarchy are overall outcome measures. These are measures that NHTSA can influence but not control. Primary outcome measures are fatalities and injuries.

The second level, intermediate outcomes, are measures such as safety belt use rates that contribute to the reduction in crash deaths and injuries. There are three categories of intermediate outcome measures:

- *Reduce the Occurrence of Crashes:* The most important function of the agency is to prevent a crash from happening. This is often referred to as crash avoidance (or "pre-crash" in the Haddon Matrix). The agency has several programs in place to help accomplish this such as vehicle safety standards for braking and lighting, don't drink and drive campaigns, Intelligent Vehicle Initiative research, compliance testing and defects investigation.

- *Mitigate the Consequences of Crashes:* If a crash does occur, the agency strives to reduce the severity and increase the survivability of the event. This is known as crashworthiness (or "crash" in the Haddon Matrix). The agency accomplishes this through encouraging seat belt and helmet use, establishing vehicle safety standards for impact protection, supporting crashworthiness research, conducting compliance testing, and defects investigation.

- *Serve our Customers:* NHTSA's customers are the American public. The agency has several programs aimed at helping the public. People can call the toll-free Auto Safety Hotline to receive motor vehicle safety information, report a suspected safety defect, or ask how to fit their child safety seats into their cars. The NCAP crash tests new cars to assess their relative crashworthiness. It classifies the results using an easily understandable five-star rating system. NCAP disseminates this information in its popular brochure, "Buying a Safer Car". The National Center for Statistics and Analysis (NCSA) publishes fatality, injury, and crash data and responds to requests for specific data on crashes, injuries, and fatalities. The agency also maintains a highly successful World Wide Web site that helps customers find announcements, download agency publications, and search for recall information. It also includes a section for children titled Safety City.

On the third level are the program output measures. These are measures that programs can more easily control such as the length of time it takes to complete a rulemaking action. Each of the line items in the agency's budget includes program performance measures and their links to intermediate outcome and overall outcome measures.

The following table shows how each program area in NHTSA's budget contributes to the intermediate outcomes of the agency. In turn, the intermediate outcomes in-

fluence overall outcomes to help reduce the number of fatalities and injuries. These measures enable the agency to track the performance of its programs.

### DOT Strategic Goals

NHTSA Programs	Safety			Mobility	Economic Growth & Trade	Human & Natural Environment
	Reduce Occurrence of Crashes	Reduce Consequences of Crashes	Customer Service			
Safety Performance Standards:						
Vehicle Regulations .....	X	X		X	X	
New Car Assessment Program .....		X	X			
Consumer Safety Information .....			X			
Fuel Economy Programs .....						X
Theft Program .....					X	
Safety Assurance:						
Vehicle Safety Compliance .....	X	X				
Auto Safety Hotline .....			X			
Defects Investigation .....	X	X				
Odometer Fraud .....					X	
Highway Safety Programs:						
Alcohol Program .....	X					
Drugged Driving Programs .....	X					
Pedestrian, Bicycle, and School Buses .....	X	X				
Motorcycle Safety .....	X	X				
Occupant Protection Program .....		X				
Safe Communities .....	X	X				
Patterns for Life .....	X	X				
Traffic Law Enforcement .....	X					
Emergency Medical Services .....		X				
Records and Licensing .....	X					
National Driver Register .....	X		X			
National Occupant Protection Use Survey .....		X	X			
Highway Safety Research .....	X	X				
TEA-21 Initiatives .....	X	X	X	X	X	X
Mission Support:						
Program Evaluation .....	X	X				
Strategic/Program Planning .....			X			
Economic Analysis .....	X	X			X	
Research And Development:						
Crash Avoidance Research .....	X					
NCSA Data Collection .....	X	X	X			
Biomechanics Research Center .....		X				
PNGV .....		X			X	X
Safety Systems .....		X		X	X	
VRTC .....	X	X				
Intelligent Transportation .....	X					
Advanced Driving Simulator .....	X					
Highway Traffic Safety Grants:						
Section 402 .....	X	X	X			
Alcohol Countermeasure Incentives .....	X		X			
Occupant Protection Incentives .....		X	X			
Child Passenger Protection Education .....	X		X			
State Safety Data Improvement .....	X		X			

### Crosscutting Activities With Other Agencies

NHTSA works in partnership with many other Federal agencies to help achieve its goals. The table below highlights the major areas of crosscutting activity that contribute to NHTSA and DOT performance goals.

## CROSS-CUTTING ACTIVITIES IN THE AREA OF TRANSPORTATION SAFETY

Department/Agency	Function
Commerce .....	Motor Vehicle Safety Harmonization
Consumer Product Safety Commission .....	Bicycle Helmet Use, Safety Recalls, Child Injury Prevention
Defense .....	National Transportation Biomechanics Research Center
Education .....	Statement of Commitment on Safety Issues, School Bus Safety
Energy .....	Fuel Economy, Alternative Fuel Vehicles
Environmental Protection Agency .....	Fuel Economy, Alternative Fuel Vehicles
Federal Emergency Management Agency .....	Federal Inter-Agency Committee on Emergency Medical Services
Health and Human Services .....	Healthy People 2000/2001, Injury Prevention, Emergency Medical Services, Sleep Disorders, Juvenile Justice, Child Injury Prevention
Interior .....	Traffic Safety Outreach, Implementation of Tribal Safe Community Program and Native American Injury Prevention Coalition Program, Section 402 Grants
Justice .....	Motor Vehicle Theft Prevention, Motor Vehicle Odometer Fraud, Safety Recalls
Labor .....	Federal Employee Seat Belt Program
National Aeronautics and Space Administration .....	Advanced Air Bag Safety
National Academy of Sciences .....	NHTSA/FHWA Speed Limit Program, Numerous Safety Studies
National Transportation Safety Board .....	Highway Crash Investigation, Safety Recommendations
State .....	Motor Vehicle Standards Harmonization
U.S. Trade Representative .....	Motor Vehicle Standards Harmonization

*Program Evaluations*

Evaluations play an integral part in NHTSA's planning and performance measurement system. The agency has been conducting evaluations of its motor vehicle safety standards since 1970. Managing for outcomes has placed a renewed emphasis on program evaluation within DOT and NHTSA, and the agency has an ambitious evaluation program planned.

These are evaluations undertaken or planned by NHTSA:

- *Evaluation of Safe Communities Demonstrations.*—This study will evaluate the impact on traffic crash fatalities and injuries of the Safe Communities Program approach (anticipated completion, 2000).
- *Section 410 Highway Safety Grant Program.*—The impact of the Section 410 Alcohol Incentive Grant program on State alcohol-related crash rates will be evaluated (anticipated completion, 1999).
- *Presidential Seat Belt Initiative.*—NHTSA will evaluate the success of the Presidential Initiative in raising seat belt use nationwide (anticipated completion, 1999).
- *Highway Safety Assessment.*—NHTSA analyzed the accomplishments of the highway safety program in 10 States and the contribution of Federal highway safety grants toward those accomplishments (completed, 1998).
- *Auto Theft and Recovery.*—This evaluation will determine the effectiveness of parts marking and anti-theft devices in reducing thefts and increasing vehicle recoveries and assess the impacts of the anti-theft acts of 1984 and 1992 (anticipated completion, 1998).
- *Odometer Fraud.*—NHTSA is estimating the incidence of odometer rollback in used passenger cars sold in the United States and assessing State and Federal programs to combat odometer fraud (anticipated completion, 1999).
- *Motor Vehicle Content Labeling.*—The agency will study trends in U.S.-Canadian content in new cars and light trucks; find out if purchasers peruse, understand, and react to the labels; and study the response of manufacturers and dealers to the regulation (anticipated completion, 1999).
- *Three-Point Belts for Backseat Occupants.*—This evaluation will determine whether the shift from lap belts to three-point belts has significantly reduced fatality and injury risk for backseat occupants, especially abdominal injuries in frontal crashes (anticipated completion, 1999).

## LISTENING TO AMERICA: IMPLEMENTING TEA-21—OUTREACH SUMMARY 1998

## INTRODUCTION AND OVERVIEW

The Transportation Equity Act for the 21st Century (TEA-21) continues the National transportation policy directions established by the ISTEA, and also makes important refinements and enhancements that reflect input from a wide diversity of

stakeholders during the USDOT's 1996 National Outreach on ISTEA Reauthorization. TEA-21 contains important new program initiatives, makes changes to State and metropolitan planning processes, augments the portfolio of innovative financing strategies, and strengthens safety programs across the Department of Transportation.

This report presents the results of the Department's 1998 Outreach on the Implementation of TEA-21. Throughout the course of that outreach effort, in venues all across America, we heard from our State and local partners and from stakeholders in America's transportation system. We heard and learned a lot about how TEA-21 should be implemented—to invest in America's future, to rebuild the nation's transportation infrastructure, to improve safety, and to protect the environment and improve the quality of life in cities and towns. And in all of these areas, we heard four consistent, overarching themes:

*Investment in Transportation Is an Investment in America's Future.*—TEA-21's guaranteed funding levels for highways and transit and its 90.5 percent Minimum Guarantee to States under all major funding categories are widely viewed as critical. They will facilitate better long-term planning and better overall management of State and regional transportation investment strategies.

More fundamentally, TEA-21's record funding levels will make possible the investments that are essential to sustaining our economy, to ensuring our quality of life, and to providing opportunity for all Americans in the 21st century.

*Flexibility Is Key to Tapping the Full Potential of TEA-21.*—Across the board, we heard about the need for flexibility. This was expressed in numerous ways, including:

- A preference for guidance rather than rules, and rules only when required by statute;
- The observation that “one-size-doesn't-fit-all” and the need for flexibility when it comes to State and local relationships, partnering arrangements with the private sector, streamlining of environmental requirements, and compliance with safety requirements; and,
- An enthusiasm for incentives rather than sanctions in reaching safety objectives.

We also heard some cautionary notes about flexibility: that streamlining of process should not lead to watering down of objectives and that there remains a Federal role in protecting the National interest and in ensuring full participation and fair treatment of all the partners and stakeholders in the nation's transportation system.

*Partnerships Hold the Key to Success.*—During the outreach, we heard how, under ISTEA, transportation partnerships have been formed all across America, and how they involve both traditional transportation “players” and other groups and individuals who are relative newcomers to the arena. These partnerships, both public-public and public-private, have discovered new and innovative ways to address diverse transportation issues, ranging from freight movement, to safety, to bicycle and pedestrian mobility. We were told how the partners have brought new perspectives and new energy to the transportation planning and decisionmaking process, and have organized to address a variety of issues, such as environmental quality, economic development, and the link between transportation and other local, regional or State policy objectives. Throughout America's multi-modal and intermodal transportation system, partnerships are seen as being critically important to better investment decisions, to funding strategies, to project delivery, and to linking transportation to economic and quality of life goals.

*Whether It's Process or Projects, Focus Needs to be on Outcomes.*—ISTEA caused people to think harder about the outcomes of transportation investment and policy choices on State and regional economies, on the environment, and on the quality of life in our nation's cities and towns.

During the TEA-21 implementation outreach, we continually heard about the importance of keeping this focus on the why of transportation. Whether it's creating better communities, sustaining the nation's economy or providing access to opportunity, we were told that these underlying public policy objectives need to be at the center of decisionmaking. With regard to the planning process, we were told that what matters is the quality of the decisions which result from that process; i.e., how well do our transportation policies and investments support basic policy objectives? As to environmental streamlining, we were advised that protecting our natural and built environments remains the goal and should not be watered down. And we were forcefully reminded that safety is one of transportation's essential bottom lines, and that we must be relentless in reducing fatalities and injuries on our transportation systems.

In short, TEA-21 continues the journey that began when the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 broke important new ground in how America's States and metropolitan regions approach transportation planning and investment decisions.

The hallmarks of the ISTEA may be found in its "Declaration of Policy" (§2), the very first paragraph of which states:

"It is the policy of the United States to develop a National Intermodal Transportation System that is economically efficient, environmentally sound, provides the foundation for the Nation to compete in the global economy, and will move people and goods in an energy efficient manner."

*Continuity and connectivity* are two fundamental concepts inherent in the word intermodalism; they are embodied in the systems approach to transportation that is at the heart of the ISTEA policy vision. We speak of a continuous transportation system wherein people and goods move efficiently and safely. When that movement involves more than one transportation mode, we speak of seamless intermodal connections.

Our journey that began with ISTEA, and now continues into the 21st century with TEA-21, is likewise continuous and connected:

- It is continuous in the sense that TEA-21 preserves and builds upon ISTEA's vision; and,
- It is connected in the sense that transportation policy and investment decision-making in America is now a *de facto* partnership of public and private stakeholders at every level.

Soon after the passage of ISTEA, the U.S. Department of Transportation began reaching out as never before to its State and local partners; and, as a result of the Department's 1996 Outreach on ISTEA Reauthorization, the vast majority of our customers' ideas were incorporated in TEA-21. During the 1996 outreach, we heard about the importance of transportation to economic development and job creation, and to America's competitiveness in international markets. We heard about the importance of fiscal restraint and responsibility, and of investing our transportation dollars to get the greatest return. We heard about a new spirit of partnership, and the need for flexibility in making transportation choices. And we heard how the ISTEA has caused people to focus on the outcomes of those choices on State and regional economies, on the environment, and on the quality of life in our nation's cities and towns.

And through it all, we heard one clear and consistent message: ISTEA works: to make 21st Century America a better place for Americans to work, to grow their businesses, to live, and to raise their families. We also heard that, as always, there were opportunities for improvement, but we were urged not to turn back the clock or lose site of what ISTEA was doing for America. In one memorable phrase, "Tune it, don't toss it."

During the 1996 outreach effort, we heard a lot, but we also learned a lot. And one of the most important lessons we learned was the value of the outreach itself, the value of listening to America as we prepared our reauthorization proposal. And so, after the President signed TEA-21 on June 9, 1998, DOT Secretary Rodney Slater directed that we begin the process again, to reach out to our partners and customers, and to benefit from their ideas on how TEA-21 can best be implemented. That effort involved all the modal agencies and included 12 Regional Forums and over 50 focus groups and workshops. Through it all, we heard from over 3,000 people: Members of Congress; Governors, mayors and other elected officials; transportation practitioners at all levels; business people and organized labor; community activists and environmentalists; shippers and transporters of freight; and our ultimate customer—the American people.

This report attempts to provide a summary of what we've heard during our Outreach on TEA-21 Implementation. It is a distillation, a synthesis of ideas and recommendations offered by a remarkable diversity of people. The ideas offered provide valuable insights to the Department in its on-going effort to make TEA-21 the best that it can be, helping not only the Department but our partners as well to create and sustain the nation's transportation systems for the 21st century.

#### HOW THIS REPORT IS ORGANIZED

This Report is divided into two principle parts:

- To provide historical context, Part 1 begins by reviewing the cornerstone principles of the ISTEA, which opened a new era for transportation in America. Then it looks at our 1996 outreach effort, and how our partners' ideas helped to shape TEA-21. Finally, it shows how ISTEA, TEA-21, and the USDOT's Strategic Plan

are of a piece, and how they form a continuous and connected vision of the nation's transportation system in the 21st century.

- Part 2 summarizes the results of the TEA-21 Implementation Outreach Effort. It is divided into four subsections, each one corresponding to one of the ISTEA's cornerstone principles, to key goals of the Departments Strategic Plan, and to major TEA-21 themes.

It would be impossible for this Report to include every issue raised and every opinion offered. Some issues were unique to a particular area, while others were beyond TEA-21's purview. We listened carefully to every witness, and in general only those views that were shared by a significant number of people are reflected in this Report. However, recognizing that important insight can sometimes come from a single individual, some ideas that were not widely offered are also included. This Report, then, is a concise but comprehensive overview of what we heard America say about issues involved in TEA-21 implementation.

#### PART 1.—ISTEA, TEA-21 & USDOT'S STRATEGIC PLAN: A CONTINUOUS AND CONNECTED VISION

##### *In the beginning—The Policy Cornerstones of the ISTEA*

The ISTEA ushered in a new era of how America goes about creating its transportation future. Since 1956, construction of the Interstate System had been the centerpiece of National transportation policy. By 1991, that critically important mission—of connecting America and providing the core transportation infrastructure needed to sustain and promote interstate commerce and national economic prosperity—was largely accomplished. By then, transportation decisionmakers, practitioners and stakeholders were calling for a more diversified, multi-modal and intermodal approach. And in 1991, Congress heard that call in fashioning the visionary ISTEA legislation. ISTEA's central elements—strategic infrastructure investment, intermodalism, flexibility, intergovernmental partnership, a strong commitment to safety and the environment, and an inclusive decisionmaking process—provided the platform from which innumerable policies, programs and projects have been launched by our State and local partners.

The ISTEA was built on four policy cornerstones:

- *Economic Development and Competitiveness in Global Markets:* From its statement of National policy, to its targeting of funds to the National Highway System, to its advancement of American leadership in transportation technology, to its emphases on fiscal responsibility and better, more cost-effective decisions, ISTEA was designed to support and enhance America's economic leadership and prosperity. Competitiveness, prosperity & jobs: these comprise the ISTEA's first cornerstone.

- *Maximizing System Performance and Return on Investment:* The "E" in ISTEA is efficiency—through better decisions and investments, through innovative financing, through deployment of new technologies, and through a new emphasis on performance: efficiency is ISTEA's second cornerstone.

- *Partnerships and Flexibility in Making Transportation Choices:* ISTEA empowered State and local governments by shifting decisionmaking authority and flexibility to them, and by enabling them to make sound investment choices. ISTEA also promoted partnerships through diverse means such as a more inclusive planning process and innovative financing strategies that attracted private sector resources. Partnerships, flexibility and better investment choices: these are ISTEA's third cornerstone.

- *Focusing on Outcomes for People and Communities:* ISTEA focused on transportation's bottom line: making America a better place to live, to raise a family, to recreate, and to work and do business. It emphasized how transportation policy and investment affect safety, the quality and sustainability of communities, and the environment. This focus on outcomes is ISTEA's fourth cornerstone.

#### LISTENING TO OUR CUSTOMERS—1996 DOT NATIONAL REAUTHORIZATION OUTREACH

In a series of 13 Regional Forums, plus over 100 focus groups in more than 40 States held by each surface modal administration, the 1996 ISTEA reauthorization outreach effort provided invaluable ideas which were vital in shaping the Clinton administration's ISTEA reauthorization proposal. This effort provided an opportunity to benefit from the insights of the stakeholders in the nation's transportation system.

During the 1996 outreach, we were told time and time again that ISTEA's four cornerstones provide the rock solid base for shaping America's transportation policies and investments in the 21st century. We were also told that ISTEA was still in some respects a work-in-progress, that there was still room for improvement. The Clinton administration and Congress listened, and designed TEA-21 to preserve



ISTEA's vision and make warranted improvements. USDOT listened as well, and developed a Strategic Plan whose core objectives track closely with ISTEA and TEA-21.

#### CONTINUITY AND CONNECTIONS—THE DOT STRATEGIC PLAN

In its vision, mission and values, the USDOT's 1997–2002 Strategic Plan continues along ISTEA's road, and the Plan's goals track closely with the ISTEA's cornerstones and TEA-21's overarching themes. As set forth in the Strategic Plan, USDOT's mission is to:

“Serve the United States by ensuring a fast, safe, efficient, accessible and convenient transportation system that meets our vital national interests and enhances the quality of life of the American people, today and into the future.”

The values articulated in the Plan—including its focus on safety and quality of life and the commitment to listen to and learn from our customers—resonate well within the ISTEA/TEA-21 framework. And so do the Plan's strategic goals:

- *Safety*.—Promote the public health and safety by working toward the elimination of transportation-related deaths, injuries, and property damage.
- *Mobility*.—Shape America's future by ensuring a transportation system that is accessible, integrated and efficient, and offers flexibility of choices.
- *Economic Growth and Trade*.—Advance America's economic growth and competitiveness domestically and internationally through efficient and flexible transportation.
- *Human and Natural Environment*.—Protect and enhance communities and the natural environment affected by transportation.
- *National Security*.—Advance the nation's vital security interests in support of national strategies such as the National Security Strategy and National Drug Control Strategy by ensuring that the transportation system is secure and available for defense mobility and that our borders are safe from illegal intrusion.

USDOT Secretary Rodney E. Slater, in unveiling the Plan, stated that “it reflects the vision I have long held: that transportation is about more than concrete, asphalt, and steel. It is about providing opportunity for all Americans.” This commitment to people is, in the final analysis, what ISTEA and TEA-21 are all about.

#### THE JOURNEY CONTINUES—LISTENING TO AMERICA: IMPLEMENTING TEA-21

With our TEA-21 implementation outreach effort complete, we at USDOT are already working with our State and local partners to lead the way to transportation excellence in the 21st century. Our 1996 Outreach on ISTEA Reauthorization provided invaluable insights and helped shape the Clinton administration's reauthorization. In 1999, the job of implementing TEA-21, and of helping to shape America's transportation system in the decades to come, is made easier by the advice offered by our partners and stakeholders in 1998. In the coming months and years, the results of this outreach effort will continue to help guide both our thinking and our actions. In effect, it becomes part of the bedrock upon which our national transportation partnership is built. The process of implementing TEA-21 will not always be easy, and there will inevitably be differing views on specific issues. But there is no doubt that there is consensus that America, poised on the verge of the 21st Century, will be better able to meet its mobility, economic and environmental challenges because of ISTEA and TEA-21.

#### PART 2.—RESULTS OF THE NATIONAL OUTREACH ON TEA-21 IMPLEMENTATION

##### INVEST IN AMERICA'S TRANSPORTATION SYSTEM AND IN MOBILITY FOR ALL AMERICANS

ISTEA emphasized improving the efficiency of the transportation system through: better decisions and investments; innovative financing; deployment of new technologies that improve system effectiveness; an emphasis on performance and outcomes for people and communities.

TEA-21 continues ISTEA's investment in both the transportation system and in people. TEA-21 ensures a guaranteed level of Federal funds through 2003 for highways and transit. TEA-21 also guarantees that each State will receive a minimum of 90.5 percent of the amount each State contributes to the Highway Trust Fund. In addition to guaranteed investment levels, TEA-21 includes special programs to ensure mobility and access to jobs, health care, and recreational activities for all Americans.

### *Support for TEA-21 Policy Objectives*

During the listening sessions we heard unanimous support for TEA-21 funding levels, and for the Minimum Guarantees to States in particular. We learned more about the depth of support for the State Infrastructure Bank program and received considerable input on the new Transportation Infrastructure Finance and Innovation Act (TIFIA) program. The Access to Jobs/Reverse Commute programs were embraced as absolutely essential to the mobility and economic well-being of low-income people and the newly employed. New guidance and excellent examples of best practices in this area were presented at a special session organized by the Federal Transit Administration. Finally, the need for Federal leadership in transportation research was noted, and concern was expressed about USDOT not having the financial resources to support essential research activities.

### *Minimum Guarantees*

The Minimum Guarantee was hailed at all of the listening sessions as one of the most important features of TEA-21. Numerous speakers and State DOTs in particular noted that the combination of guaranteed annual funding levels and Minimum Guarantees for each State will facilitate better long term planning, more certainty in the availability of funds, and better overall management of the transportation investment programs of States and MPOs.

### *Innovative Finance*

TEA-21 also facilitates the attraction of private capital to transportation investments. The Transportation Infrastructure Finance and Innovation Act (TIFIA) creates a mechanism through which DOT can provide credit assistance on flexible terms directly to public-private sponsors of major surface transportation projects to assist them in gaining access to capital markets. During the listening sessions, we heard unanimous support for the TIFIA program and requests for the expeditious release of implementing guidance and policies.

State Infrastructure Banks (SIBs) were also widely supported. Many State DOT representatives registered their disappointment that the SIB program under TEA-21 is limited to only four States. Several States indicated that they had set up SIBs under the pilot program established in the National Highway System Designation Act and now want to capitalize their banks with Federal-aid funds authorized through TEA-21. State DOT representatives indicated their intention to work with DOT and Congress toward expanding the SIB program to all States. Several speakers expressed concern about the provision that requires that repayments to SIBs be treated as Title 23 funds and thus, subject to all Title 23 Federal requirements.

### *Access to Jobs/Reverse Commute Programs*

The Access to Jobs/Reverse Commute Programs has two objectives: (1) to develop transportation services designed to transport welfare recipients and low-income individuals to and from jobs, and (2) to develop transportation services for residents of urban centers and rural areas to access suburban employment opportunities.

We heard at a special listening session on the Access to Jobs Program that transit providers need flexibility to ensure that the goals of the program are met. Participants advocated that transit operators adopt a management philosophy centered around the concept of mobility management incorporating bus, rail, paratransit and ridesharing services.

In addition, participants cited the need for better coordination of transit with other federally-funded social service programs such as those operated by the Departments of Health and Human Services and Housing and Urban Development. Finally, participants called for the development of training programs to show how to coordinate the many Federal programs with a common goal of better service delivery to the traveling public.

### *Research Programs*

Participants at several of the listening sessions noted the importance of transportation research and the need for the DOT to play a critical role in the coordination and dissemination of research. It was stated that interdisciplinary research could yield substantial benefits in areas such as the impacts of the aging population on transportation and how technology can be deployed to target end users.

Speakers at many of the listening sessions were concerned with the research program funding cuts at DOT under TEA-21. Participants indicated that DOT needs to be the primary champion in transportation research and that some corrective action is needed with respect to ensuring adequate funding for DOT to carry out and champion transportation research.

## REBUILDING AMERICA'S INFRASTRUCTURE

ISTEA recognized that America's transportation infrastructure is key to economic growth and competitiveness in international markets. This means building new infrastructure, to be sure, but it also means better managing the existing system.

TEA-21 builds upon ISTEA's emphases on intermodal connections, the National Corridors and Borders Programs, and the use of advanced technologies to maximize system performance.

*Intermodal Connections*

In New York, San Diego, Houston, Detroit and New Orleans, we were repeatedly told about the importance of efficient, "seamless" intermodal connections for the movement of both people and goods.

We heard how transit's effectiveness depends in part on how well it interfaces with highway, bicycle and pedestrian facilities. And we heard about how access to national and international markets depends on how well our highway and rail systems interface with seaports, airports, and cross-border transportation systems.

In spite of ISTEA's and TEA-21's emphases on intermodalism and funding flexibility, some expressed concern that some intermodal projects are neither "fish nor fowl" and have difficulty competing in established funding categories and programs. Others talked about the importance of public-private partnerships, and the need to have clearer guidance and understanding of how such partnerships can be formed and then function within the TEA-21 framework. And we were encouraged to "push the envelope" and "think outside the box" as we work with our State, local and private sector partners to create new funding and project delivery strategies.

*Borders and Corridors*

TEA-21's National Corridor Planning and Border Infrastructure Programs were the principle focus of the San Diego, Houston and Detroit forums, but they received a lot of attention in several other forums as well. There was unanimous support for the creation of these programs in TEA-21, and agreement that it is in the national interest to have efficient trade corridors and border crossings. Business leaders in particular noted that "just-in-time" manufacturing processes are particularly vulnerable to cross-border delays.

Concern was expressed that TEA-21's level of funding for these programs is dwarfed by needs, and that spreading available funding to too many areas would hamper program effectiveness.

There was widespread agreement that funding for the two programs should be kept together, rather than identifying separate amounts for each. The feeling was that funds should be allocated based on need and project merit, and that dividing the funds would introduce an artificial restriction in the allocation process.

A major topic of discussion was: what criteria should be used in selecting projects for funding? There were a myriad of suggestions ranging from the general to the very specific, and we will take all of them into account as we develop the evaluation process. Some of the key themes that we heard in this regard include:

- Maximize leveraging of non-Federal funds, including private sector.
- Deploy advanced technologies to maximize return on Federal investment.
- Focus on key linkages that would otherwise not be funded.
- Fund projects with multi-state and international significance.
- Concentrate on projects that are ready-to-go and provide the highest short-term return on investment
- Include safety as a key criterion for project selection.

We were told how partnerships and leveraging of non-Federal funds tend to go hand-in-hand. We were advised that commitment of State, local and private stakeholders should be considered in project selection, and that one (though not the only) indication of commitment is the level of resources that each partner brings to the table.

Some speakers noted that institutional and logistical improvements can be as important as new infrastructure in smoothing traffic flows at borders and are generally less costly. Examples include: pre-clearance processes and paperless processing; improvements to inter-agency coordination; and administrative changes such as extending the operating hours of U.S. Customs facilities.

*Intelligent Transportation Systems (ITS)*

The potential for advanced transportation technologies to improve the movement of goods between States and across borders was widely recognized.

ITS is being seen by State and local transportation agencies as a key tool for better managing the transportation system, for squeezing better performance out of existing facilities. Private sector interests, both those who ship and those who trans-

port goods, see ITS as enabling them to more effectively use the transportation system. However, because ITS projects have been “mainstreamed” in TEA-21 and are eligible under a variety of funding programs, there was not consensus as to whether stand-alone ITS applications should be considered in the Borders and Corridors programs.

#### IMPROVE QUALITY OF LIFE IN COMMUNITIES AND PROTECT THE ENVIRONMENT

ISTEA placed unprecedented emphasis on how transportation can contribute to a better quality of life for every American by requiring States and MPOs to consider the impacts of transportation investment on safety, community quality-of-life and the environment.

TEA-21 builds upon and refines the planning provisions of ISTEA to assure that quality of life considerations are part of the decisionmaking process. It continues and increases funding for the Congestion Mitigation and Air Quality Improvement and the Transportation Enhancements Programs. TEA-21 calls for environmental streamlining and better integration of transportation and community planning. And TEA-21 creates an innovative new pilot program, the Transportation and Community and System Preservation Program, to test new approaches to transportation, growth management and community preservation.

##### *TEA-21 Policy Objectives*

Throughout the listening sessions, remarks reflected broad-based recognition of the significance that transportation has for Americans’ quality-of-life. Speakers noted the need to make wise transportation investments that reflect sensitivity to the impacts of transportation on the economy, environment, and quality of life. Speakers asked that the DOT provide a flexible framework for States and MPOs to address these issues, and recommended that implementing guidance and Federal policies be focused on outcomes rather than process.

A diversity of speakers discussed the value of the many partnerships that have evolved over the past several years and how non-traditional partners in planning and transportation decisionmaking have had a positive impact on investment decisions. In addition to State DOTs and MPOs, private sector freight interests, bicycle and pedestrian advocates, and environmental and community interest groups all participated in the sessions and shared their perspectives and support for TEA-21’s planning, community quality-of-life and environmental programs.

##### *TEA-21 Planning Provisions*

The core of the metropolitan and Statewide planning requirements remain intact under TEA-21, emphasizing the role of State and local officials, in cooperation with transit operators, in tailoring the planning process to meet metropolitan and State needs. The key change in TEA-21 is the consolidation of 16 metropolitan and 23 Statewide planning “factors,” and participants in the listening sessions were very supportive of this change. The flexibility this provides to MPOs and States is perceived to be a positive change. Many speakers predicted that this will yield more meaningful assessment of projects and strategies.

We heard a variety of suggestions on improving the planning process; however States and MPOs did not always agree on approaches to planning issues. Specific suggestions included requests for: continued DOT support for the development of partnerships between States, MPOs, rural areas and stakeholders; information and methods on how to improve public involvement on project and corridor decisions; continued education and training for MPOs; and continued outreach, case studies and other ways of sharing information with States, MPOs, rural areas and other stakeholders.

##### *Institutional Relationships and Partnerships*

Many presenters noted that the partnerships that have evolved in the past several years were key to the success of ISTEA. The emphasis on collaborative decision-making has enhanced the planning process. Some speakers noted that USDOT should not dictate institutional relationships, but others felt that there should be a Federal role in ensuring a level playing field. By and large, State representatives felt more strongly than did either MPOs, rural areas or local governments that they should be left to work out their partnering arrangements. Some local government representatives, including rural counties and MPOs indicated satisfaction with State-local partnerships, but others expressed continued concern for balance of decisionmaking authority and opportunities for consultation among stakeholders.

### *Improved Public Involvement*

A number of speakers indicated that they believe further progress can be made in involving the public and interested stakeholders in the planning process. Some speakers requested DOT clarification on expectations for consultation with other agencies and interested community groups in the planning process. Others felt that corridor and project level public involvement process needs to be improved.

Speakers generally acknowledged that the transportation community has made extensive progress in seeking public involvement and participation over the past several years yet there is ample room for improvement in this area.

### *Education and Training*

A number of speakers noted the need for interdisciplinary education at the university level and the value of multiple perspectives being brought to bear on complex transportation issues. Some presenters called upon DOT to provide additional training to MPO staffs and to continue using technology transfer as a way of reaching large numbers of transportation practitioners efficiently. Other speakers noted the value of training transportation professionals to consider the full range of impacts of investments with particular emphasis on impacts to communities, quality of life and the environment. While speakers noted that much progress has been made since ISTEA was enacted, there was general agreement that additional training and education is needed.

Presenters noted the value of knowing what other regions are doing to address the complex array of issues related to providing improved freight and passenger transportation. In this vein, they requested continued DOT emphasis on making case study information on best practices widely available to transportation professionals.

### *CMAQ and Transportation Enhancements Programs*

Increased funding for both the Congestion Mitigation and Air Quality Improvement (CMAQ) Program and the Transportation Enhancements Program were broadly supported during the outreach sessions. Participants in the listening sessions asked for continued flexibility in the administration of the CMAQ program and that DOT resist reinventing the program. Specifically, they asked that new guidance focus on results, retain flexibility, enable States and MPOs to sustain the partnerships they have developed to date, and continue the new initiatives that have begun through ISTEA funding. There was some concern expressed over the provision that allows States limited flexibility to transfer CMAQ funds to other programs.

### *Environmental Streamlining*

TEA-21 calls for the establishment of a coordinated review process for the DOT to work with other Federal agencies to ensure that major transportation projects are advanced according to cooperatively determined timeframes. This process is to use concurrent, rather than sequential reviews and will allow States to include State-specific environmental reviews in the coordinated process.

During the listening sessions, there was considerable support for the environmental streamlining provisions along with some cautionary notes. In general, there was consensus that the current review process can be improved including shortening the multi-year timeframe for environmental processing and reviews. It was noted that an enhanced process, with all participants involved from the beginning, would enable States and MPOs to consult with environmental and planning partners more effectively and efficiently. Speakers noted that streamlining does not mean weakening environmental goals but calls for refinement of the planning and environmental processes. There was support for streamlining that will save time and money as long as it doesn't compromise the policy objectives encompassing environmental protection. Participants commented that: "doing it right and doing it quickly are not necessarily at odds."

### IMPROVE SAFETY

ISTEA Safety is the DOT's No. 1 priority. There was an increased emphasis on safety under ISTEA, with resources focused on both conventional measures and new technologies to make America's transportation system safer. Under Federal leadership, States and MPOs, commercial vehicle operators, safety advocates, insurance companies, and health professionals joined together to find new ways to reduce transportation-related deaths and accidents.

TEA-21 protects American's health and safety through programs to increase seat belt use, reduce crashes at highway-rail grade crossings, get unsafe trucks off the road, and prevent pipeline explosions. New incentive programs offer grants that can be used for any Title 23 purpose. These programs are aimed at increasing the use

of safety belts and promoting the enactment and enforcement of 0.08 percent blood alcohol concentration standards for drunk driving. In addition, TEA-21 designates "the safety and security of the transportation system for motorized and non-motorized users" as one of the seven newly established factors to be considered in the Statewide and metropolitan planning processes.

#### *TEA-21 Policy Objectives*

During the listening sessions we heard a great deal of support for DOT's efforts to improve safety. Speakers emphasized the critical need for public-private and public-public partnerships to address safety concerns. The Highway-Rail Grade Crossing Safety Program (Operation LifeSaver) and the Red Light Running programs were repeatedly mentioned as two good examples of Federal-State-local partnerships to improve safety on the nation's transportation system.

We also heard about the need for additional emphasis on Highway-Rail Grade Crossing safety issues in rural areas. Highway traffic safety programs were often the topic of discussion, particularly ways to improve seatbelt usage and reduce alcohol-related accidents.

Motor carrier safety programs were also discussed, as was the need for enhanced safety for bicyclists and pedestrians. Finally, research on safety issues was raised as an important investment and one which many of the speakers supported.

#### *Partnerships*

Participants emphasized the need to develop new partnerships between the public and private/non-profit sectors to improve safety. States asked for the ability to tailor safety programs to State and local constituencies and for USDOT to allow States and local governments to decide how best to improve safety within reasonable guidelines. Many States supported performance-based guidance as a way to measure progress toward attainment of safety goals. It was also suggested that the DOT merge its safety-related data resources in order to more efficiently provide information to State and local governments.

#### *Highway-Rail Grade Crossing Safety*

Many stakeholders advocated continuation and expansion of the Operation Life-Saver Program with higher levels of funding in the future. The importance of a strong public sector role in education and prevention was noted and possible roles for the railroads include making improvements to frontage roads, installing concrete barriers, and enforcing trespassing programs. Participants requested that the DOT also ensure that States which are primary gateways to Mexico and Canada receive adequate funds to ensure the implementation of needed safety improvements at heavily traveled border crossings.

#### *Highway Traffic Safety*

There was overall support for the advanced air bags schedule, incentive program to improve seat belt use, air bag technology research, repeat offender laws, and open container laws. It was specifically suggested that DOT encourage the enactment of BAC legislation and seat belt programs in the implementation guidelines to the States. Further, speakers noted that local governments and non-profit educational organizations play a key role in improving safety and that these groups can be valued partners with States to better address aggressive driving, child safety seat use, and other safety issues.

#### *Commercial Motor Carrier Safety Programs*

There was general support for pilot programs, carrier shutdown provisions for failure to pass safety fitness guidelines, programs to regularly check truck maintenance and driver regulation. At several listening sessions it was suggested that greater use of ITS technologies to reduce fatalities involving trucks should be a DOT priority and that short term benefits of such programs could be substantial.

#### *Bicycle and Pedestrian Safety*

The need for improved safety for bicyclists and pedestrians was raised at many of the listening sessions. TEA-21 broadens eligibility to include off-roadway and bicycle safety improvements in the Surface Transportation Program (STP) safety set-aside program. Specific issues raised included safety provisions for bicyclists at diagonal highway-rail grade crossings, ensuring adequate width of bicycle lanes, and the need for continuing bicycle safety education programs for children. In addition, several speakers urged support for the consideration of the safety benefits of traffic calming and street and arterial design modifications in the planning process.

*Safety Research*

State DOTs suggested that one necessary element of safety improvement is comprehensive analysis of automotive safety and related medical research issues. These include pre-crash, crash, and post-crash events and effects on people, vehicles and the highway environment. Presenters recommended that case study investigations on roadside hardware, vehicle structure and air bags and restraint systems be undertaken in order to identify new ways to improve safety.

Just as safety is the DOT's No. 1 priority, it was clear from the listening sessions that States, MPOs and the private sector also consider safety a top priority. It is clear from the presentations that transportation agencies, both public and private sector, are eager to continue working with the Federal Government to improve the safety and security of the transportation system for motorized and non-motorized users.

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 TRAFFIC SAFETY FACTS 1997

## OVERVIEW

## INTRODUCTION

Motor vehicle travel is the primary means of transportation in the United States, providing an unprecedented degree of mobility. Yet for all its advantages, deaths and injuries resulting from motor vehicle crashes are the leading cause of death for persons of every age from 6 to 27 years old (based on 1994 data). Traffic fatalities account for more than 90 percent of transportation-related fatalities. The mission of the National Highway Traffic Safety Administration is to reduce deaths, injuries, and economic losses from motor vehicle crashes.

Fortunately, much progress has been made in reducing the number of deaths and serious injuries on our nation's highways. In 1997, the fatality rate per 100 million vehicle miles of travel reached a new historic low of 1.6, down from 1.7, the rate since 1992. The 1987 rate was 2.4 per 100 million vehicle miles traveled. A 69 percent safety belt use rate nationwide and a reduction in the rate of alcohol involvement in fatal crashes to 38.6 percent were significant contributions to maintaining this consistently low fatality rate. However, much remains to be done. The economic cost alone of motor vehicle crashes in 1994 was more than \$150.5 billion.

In 1997, 41,967 people were killed in the estimated 6,764,000 police-reported motor vehicle traffic crashes, 3,399,000 people were injured, and 4,542,000 crashes involved property damage only.

This overview fact sheet contains statistics on motor vehicle fatalities based on data from the Fatality Analysis Reporting System (FARS). FARS is a census of fatal crashes within the 50 states, the District of Columbia, and Puerto Rico (although Puerto Rico is not included in U.S. totals). Crash and injury statistics are based on data from the General Estimates System (GES). GES is a probability-based sample of police-reported crashes, from 60 locations across the country, from which estimates of national totals for injury and property-damage-only crashes are derived.

Other fact sheets available from the National Center for Statistics and Analysis are Alcohol, Occupant Protection, Speeding, Children, Young Drivers, Older Population, Pedestrians, Pedalcyclists, Motorcycles, Large Trucks, School Buses, State Traffic Data, State Alcohol Estimates, and Rural Crashes. Detailed data on motor vehicle traffic crashes are published annually in *Traffic Safety Facts: A Compilation of Motor Vehicle Crash Data from the Fatality Analysis Reporting System and the General Estimates System*.

## SUMMARY

In 1997, 41,967 people lost their lives in motor vehicle crashes—a decrease of 0.2 percent from 1996.

The fatality rate per 100 million vehicle miles of travel in 1997 was 1.6. The injury rate per 100 million vehicle miles of travel in 1997 was 133. The fatality rate per 100,000 population was 15.68 in 1997, a decrease of 1 percent from the 1996 rate of 15.86.

An average of 115 persons died each day in motor vehicle crashes in 1997—one every 13 minutes.

Motor vehicle crashes are the leading cause of death for every age from 6 through 27 years old.

Vehicle occupants accounted for 85 percent of traffic fatalities in 1997. The remaining 15 percent were pedestrians, pedalcyclists, and other nonoccupants.

## OCCUPANT PROTECTION

In 1997, 49 States and the District of Columbia had safety belt use laws in effect. Use rates vary widely from State to State, reflecting factors such as differences in public attitudes, enforcement practices, legal provisions, and public information and education programs.

From 1975 through 1997, it is estimated that safety belts saved 100,998 lives, including 10,750 lives saved in 1997. If ALL passenger vehicle occupants over age 4 wore safety belts, 20,351 lives (that is, an additional 9,601) could have been saved in 1997.

In 1997, it is estimated that 312 children under age 5 were saved as a result of child restraint use. An estimated 3,894 lives were saved by child restraints from 1975 through 1997.

Children in rear-facing child seats should not be placed in the front seat of cars equipped with passenger-side air bags. The impact of a deploying air bag striking a rear-facing child seat could result in injury to the child. NHTSA also recommends that children 12 and under sit in the rear seat away from the force of a deploying air bag.

In 1997, 44 percent of passenger car occupants and 49 percent of light truck occupants involved in fatal crashes were unrestrained.

In fatal crashes, 73 percent of passenger car occupants who were totally ejected from the vehicle were killed. Safety belts are effective in preventing total ejections: only 1 percent of the occupants reported to have been using restraints were totally ejected, compared with 20 percent of the unrestrained occupants.

## ALCOHOL

In 1997 there were 16,189 fatalities in alcohol-related crashes. This is a 6 percent decrease compared to 1996, and it represents an average of one alcohol-related fatality every 32 minutes.

The 16,189 alcohol-related fatalities in 1997 (38.6 percent of total traffic fatalities for the year) represent a 32 percent reduction from the 23,641 alcohol-related fatalities reported in 1987 (51.0 percent of the total).

NHTSA estimates that alcohol was involved in 38.5 percent of fatal crashes and in 7.0 percent of all crashes in 1997.

In 1997, 30.3 percent of all traffic fatalities occurred in crashes in which at least one driver or nonoccupant had a blood alcohol concentration (BAC) of 0.10 grams per deciliter (g/dl) or greater.

All States and the District of Columbia now have 21-year-old minimum drinking age laws. NHTSA estimates that these laws have reduced traffic fatalities involving drivers 18 to 20 years old by 13 percent and have saved an estimated 17,359 lives since 1975. In 1997, an estimated 846 lives were saved by minimum drinking age laws.

Approximately 1.5 million drivers were arrested in 1996 for driving under the influence of alcohol or narcotics. This is an arrest rate of 1 for every 122 licensed drivers in the United States (1997 data not yet available).

About 3 in every 10 Americans will be involved in an alcohol-related crash at some time in their lives.

From 1987 to 1997, intoxication rates (BAC of 0.10 g/dl or greater) decreased for drivers of all age groups involved in fatal crashes.

Intoxication rates for drivers in fatal crashes in 1997 were 27.9 percent for motorcycles, 20.2 percent for light trucks, 18.2 percent for passenger cars, and 1.1 percent for large trucks.

## SPEEDING

Speeding—exceeding the posted speed limit or driving too fast for conditions—is one of the most prevalent factors contributing to traffic crashes. The economic cost to society of speeding-related crashes is estimated by NHTSA to be \$28.9 billion per year. In 1997, speeding was a contributing factor in 30 percent of all fatal crashes, and 13,036 lives were lost in speeding-related crashes.

In 1997, 626,000 people received minor injuries in speeding-related crashes. An additional 75,000 people received moderate injuries, and 41,000 received critical injuries in speeding-related crashes (based on methodology from *The Economic Cost of Motor Vehicle Crashes 1994*, NHTSA).

In 1997, 86 percent of speeding-related fatalities occurred on roads that were not Interstate highways.

For drivers involved in fatal crashes, young males are the most likely to be speeding. The proportion of all crashes that are speeding-related decreases with increas-



ing driver age. In 1997, 37 percent of the male drivers 15 to 20 years old who were involved in fatal crashes were speeding at the time of the crash.

Alcohol and speeding are clearly a deadly combination. Speeding involvement is prevalent for drivers involved in alcohol-related crashes. In 1997, 43 percent of the intoxicated drivers (BAC=0.10 or higher) involved in fatal crashes were speeding, compared with only 14 percent of the sober drivers (BAC=0.00) involved in fatal crashes.

#### MOTORCYCLES

The 2,106 motorcyclist fatalities in 1997 accounted for 5 percent of all traffic fatalities for the year. An additional 54,000 motorcycle occupants were injured.

Per vehicle mile traveled, motorcyclists were about 15 times as likely as passenger car occupants to die in a motor vehicle traffic crash and about 3 times as likely to be injured.

In 1997, 41 percent of all motorcycle drivers involved in fatal crashes were speeding. The percentage of speeding involvement in fatal crashes was approximately twice as high for motorcyclists as for drivers of passenger cars or light trucks, and the percentage of alcohol involvement was more than 50 percent higher for motorcyclists.

In 1997, 43 percent of fatally injured motorcycle operators and 51 percent of fatally injured passengers were not wearing helmets at the time of the crash.

Nearly one out of five motorcycle operators (18 percent) involved in fatal crashes in 1997 were operating the vehicle with an invalid license at the time of the collision.

Motorcycle operators involved in fatal crashes in 1997 had higher intoxication rates (BAC of 0.10 g/dl or greater) than any other type of motor vehicle driver. The intoxication rate for motorcycle operators involved in fatal crashes was 27.9 percent.

NHTSA estimates that helmets saved the lives of 486 motorcyclists in 1997. If all motorcyclists had worn helmets, an additional 266 lives could have been saved.

#### LARGE TRUCKS

In 1997, 11 percent (4,777) of all the motor vehicle traffic fatalities reported involved heavy trucks (gross vehicle weight rating greater than 26,000 pounds), and 2 percent (639) involved medium trucks (gross vehicle weight rating 10,000 to 26,000 pounds).

Of the fatalities that resulted from crashes involving large trucks (gross vehicle weight rating greater than 10,000 pounds), 78 percent were occupants of another vehicle, 8 percent were nonoccupants, and 13 percent were occupants of a large truck.

Large trucks accounted for 8 percent of all vehicles involved in fatal crashes and 4 percent of all vehicles involved in injury and property-damage-only crashes in 1997.

More than three-quarters (78 percent) of the large trucks involved in fatal crashes in 1997 collided with another motor vehicle in transport.

Only 1.1 percent of the drivers of large trucks involved in fatal crashes in 1997 were intoxicated, compared with 18.2 percent for passenger cars, 20.2 percent for light trucks, and 27.9 percent for motorcycles.

#### CARS, LIGHT TRUCKS, AND VANS

In 1997, 32,213 occupants of passenger vehicles were killed in traffic crashes and an additional 3,146,000 were injured, accounting for 90 percent of all occupant fatalities (passenger cars 62 percent, light trucks and vans 29 percent) and 97 percent of all occupants injured (passenger cars 73 percent, light trucks and vans 24 percent).

Occupant fatalities in single-vehicle crashes accounted for 39 percent of all motor vehicle fatalities in 1997. Occupant fatalities in multiple-vehicle crashes accounted for 46 percent of all fatalities, and the remaining 15 percent were nonoccupant fatalities (pedestrians, pedalcyclists, etc.).

Among passenger vehicles involved in fatal crashes, 60 percent of the occupant fatalities in 1997 occurred in frontal impacts.

Ejection from the vehicle accounted for 26 percent of all passenger vehicle occupant fatalities. The ejection rate for occupants of light trucks in fatal crashes was twice the rate for passenger car occupants.

Utility vehicles had the highest rollover involvement rate of any vehicle type in fatal crashes—36 percent, as compared with 24 percent for pickups, 20 percent for vans, and 15 percent for passenger cars.

Utility vehicles also had the highest rollover rate in injury crashes—9 percent, compared with 7 percent for pickups, 3 percent for vans, and 3 percent for passenger cars.

Nearly two-thirds (63 percent) of the passenger vehicle occupants killed in traffic crashes in 1997 were unrestrained.

The intoxication rate for drivers of light trucks involved in fatal crashes (20.2 percent) is higher than that for passenger car drivers (18.2 percent).

#### DRIVER AGE

There are more than 24 million people age 70 years and older in the United States. In 1997, this age group made up 9 percent of the total U.S. resident population, compared with 8 percent in 1987. From 1987 to 1997, this older segment of the population grew 2.1 times as fast as the total population.

In 1997, 175,000 older individuals were injured in traffic crashes, accounting for 5 percent of all the people injured in traffic crashes during the year. These older individuals made up 14 percent of all traffic fatalities, 13 percent of all vehicle occupant fatalities, and 17 percent of all pedestrian fatalities.

Older drivers involved in fatal crashes in 1997 had the lowest intoxication rate (3.8 percent) of all adult drivers.

In two-vehicle fatal crashes involving an older driver and a younger driver, the vehicle driven by the older person was almost 3 times as likely to be the one that was struck (55 percent and 20 percent, respectively). In 44 percent of these crashes, both vehicles were proceeding straight at the time of the collision. In 28 percent, the older driver was turning left—7 times as often as the younger driver.

When driver fatality rates are calculated on the basis of estimated annual travel, the highest rates are found among the youngest and oldest drivers. Compared with the fatality rate for drivers 25 through 69 years old, the rate for teenage drivers is about 4 times as high, and the rate for drivers in the oldest group is 9 times as high.

Young female drivers, under age 50, have a lower fatality rate than their male counterparts, on a per-mile-driven basis, while the rate is essentially the same for both male and female drivers over 50 years of age, with the exception of the oldest group (Figure 8).

#### YOUTH

In 1997, 16- to 24-year-olds represented 23 percent of all traffic fatalities, compared with 8 percent for ages 1 to 15, 44 percent for ages 25 to 54, and 25 percent for ages 55 and over.

On a per population basis, drivers under the age of 25 had the highest rate of involvement in fatal crashes of any age group.

The intoxication rate for 16- to 20-year-old drivers involved in fatal crashes in 1997 was 14.3 percent. The highest intoxication rates were for drivers 21 to 24 and 25 to 34 years old (26.3 percent and 23.8 percent, respectively).

Nearly one-third of all children between the ages of 5 and 9 years who were killed in motor vehicle traffic crashes were pedestrians. One-fifth of the traffic fatalities under age 16 were pedestrians.

Passenger vehicle occupants 10 to 24 years old involved in fatal crashes had the lowest restraint use rate (44 percent), and those over age 65 had the highest rate (67 percent).

#### MALE/FEMALE FATAL CRASH INVOLVEMENT

In 1997, the fatal crash involvement rate per 100,000 population was almost 3 times as high for male drivers as for females. However, the population-based rates do not account for the actual on-road exposure, which is greater for males, or the percentage of the population that has driver licenses, also greater for males (see Figure 8).

Males accounted for 66 percent of all traffic fatalities, 69 percent of all pedestrian fatalities, and 88 percent of all pedalcyclist fatalities in 1997.

The intoxication rate for male drivers involved in fatal crashes was 20.3 percent, compared with 10.3 percent for female drivers.

Among female drivers of passenger vehicles involved in fatal crashes in 1997, 32 percent were unrestrained at the time of the collision, compared with 46 percent of male drivers in fatal crashes.

## PEDESTRIANS

In 1997, 77,000 pedestrians were injured and 5,307 were killed in traffic crashes in the United States, representing 2 percent of all the people injured in traffic crashes and 13 percent of all traffic fatalities.

On average, a pedestrian is killed in a motor vehicle crash every 99 minutes, and one is injured every 7 minutes.

Alcohol involvement—either for the driver or the pedestrian—was reported in 45 percent of the traffic crashes that resulted in pedestrian fatalities. Of the pedestrians involved, 29.5 percent were intoxicated. The intoxication rate for the drivers involved was only 12.5 percent. In 5.3 percent of the crashes, both the driver and the pedestrian were intoxicated.

## PEDALCYCLISTS

In 1997, 813 pedalcyclists were killed and an additional 58,000 were injured in traffic crashes. Pedalcyclists made up 2 percent of all traffic fatalities and 2 percent of all the people injured in traffic crashes during the year.

Most of the pedalcyclists injured or killed in 1997 were males (82 percent and 88 percent, respectively), and most were between the ages of 5 and 44 years (88 percent and 76 percent, respectively).

Almost one-third (30 percent) of the pedalcyclists killed in traffic crashes in 1997 were between 5 and 15 years old.

Table 1. Motor Vehicle Occupants and Nonoccupants Killed and Injured, 1987-1997

Year	Occupants							Nonoccupants					Total
	Passenger Cars	Light Trucks	Large Trucks	Motorcycles	Buses	Other/Unknown	Total	Pedestrian	Pedalcyclist	Other	Total		
Killed													
1987	25,132	8,058	852	4,036	51	436	38,565	6,745	948	132	7,825	46,390	
1988	25,808	8,306	911	3,662	54	429	39,170	6,870	911	136	7,917	47,087	
1989	25,063	8,551	858	3,141	50	424	38,087	6,556	832	107	7,495	45,582	
1990	24,092	8,601	705	3,244	32	460	37,134	6,482	859	124	7,465	44,599	
1991	22,385	8,391	661	2,806	31	466	34,740	5,801	843	124	6,768	41,508	
1992	21,387	8,098	585	2,395	28	387	32,880	5,549	723	98	6,370	39,250	
1993	21,566	8,511	605	2,449	18	425	33,574	5,649	816	111	6,576	40,150	
1994	21,997	8,904	670	2,320	18	409	34,318	5,489	802	107	6,398	40,716	
1995	22,423	9,568	648	2,227	33	392	35,291	5,584	833	109	6,526	41,817	
1996	22,505	9,932	621	2,161	21	455	35,695	5,449	765	154	6,368	42,065	
1997	21,989	10,224	717	2,106	17	640	35,693	5,307	813	154	6,274	41,967	
Injured													
1988	2,585,000	478,000	37,000	105,000	15,000	4,000	3,224,000	110,000	75,000	8,000	192,000	3,416,000	
1989	2,431,000	511,000	43,000	83,000	15,000	5,000	3,088,000	112,000	73,000	11,000	196,000	3,284,000	
1990	2,376,000	505,000	42,000	84,000	33,000	4,000	3,044,000	105,000	75,000	7,000	187,000	3,231,000	
1991	2,235,000	563,000	28,000	80,000	21,000	4,000	2,931,000	88,000	67,000	11,000	166,000	3,097,000	
1992	2,232,000	545,000	34,000	65,000	20,000	12,000	2,908,000	89,000	63,000	10,000	162,000	3,070,000	
1993	2,265,000	601,000	32,000	59,000	17,000	4,000	2,978,000	94,000	68,000	9,000	171,000	3,149,000	
1994	2,364,000	631,000	30,000	57,000	16,000	4,000	3,102,000	92,000	62,000	9,000	164,000	3,266,000	
1995	2,469,000	722,000	30,000	57,000	19,000	4,000	3,303,000	86,000	67,000	10,000	162,000	3,465,000	
1996	2,478,000	768,000	33,000	56,000	20,000	4,000	3,360,000	82,000	59,000	11,000	151,000	3,511,000	
1997	2,378,000	768,000	31,000	54,000	17,000	5,000	3,253,000	77,000	58,000	11,000	146,000	3,399,000	

\* Includes 2 fatalities of unknown person type.

Table 2. Persons Killed and Injured and Fatality and Injury Rates, 1987-1997

Killed									
Year	Killed	Resident Population (Thousands)	Fatality Rate per 100,000 Population	Licensed Drivers (Thousands)	Fatality Rate per 100,000 Licensed Drivers	Registered Motor Vehicles (Thousands)	Fatality Rate per 100,000 Registered Vehicles	Vehicle Miles Traveled (Billions)	Fatality Rate per 100 Million VMT
1987	46,390	242,289	19.15	161,816	28.67	172,750	26.85	1,921	2.4
1988	47,087	244,499	19.26	162,854	28.91	177,455	26.53	2,026	2.3
1989	45,582	246,819	18.47	165,554	27.53	181,165	25.16	2,096	2.2
1990	44,599	249,440	17.88	167,015	26.70	184,275	24.20	2,144	2.1
1991	41,508	252,124	16.46	168,995	24.56	186,370	22.27	2,172	1.9
1992	39,250	255,002	15.39	173,125	22.67	184,938	21.22	2,247	1.7
1993	40,150	257,753	15.58	173,149	23.19	188,350	21.32	2,296	1.7
1994	40,716	260,292	15.64	175,403	23.21	192,497	21.15	2,358	1.7
1995	41,817	262,761	15.91	176,628	23.68	197,065	21.22	2,423	1.7
1996	42,065	265,179	15.86	179,539	23.43	201,626	20.86	2,486	1.7
1997	41,967	267,636	15.68	*	*	*	*	2,560	1.6

Injured									
Year	Injured	Resident Population (Thousands)	Injury Rate per 100,000 Population	Licensed Drivers (Thousands)	Injury Rate per 100,000 Licensed Drivers	Registered Motor Vehicles (Thousands)	Injury Rate per 100,000 Registered Vehicles	Vehicle Miles Traveled (Billions)	Injury Rate per 100 Million VMT
1988	3,416,000	244,499	1,397	162,854	2,098	177,455	1,925	2,026	169
1989	3,284,000	246,819	1,330	165,554	1,984	181,165	1,813	2,096	157
1990	3,231,000	249,440	1,295	167,015	1,934	184,275	1,753	2,144	151
1991	3,097,000	252,124	1,228	168,995	1,833	186,370	1,662	2,172	143
1992	3,070,000	255,002	1,204	173,125	1,773	184,938	1,660	2,247	137
1993	3,149,000	257,753	1,222	173,149	1,819	188,350	1,672	2,296	137
1994	3,266,000	260,292	1,255	175,403	1,862	192,497	1,697	2,358	139
1995	3,465,000	262,761	1,319	176,628	1,962	197,065	1,758	2,423	143
1996	3,511,000	265,179	1,324	179,539	1,956	201,626	1,741	2,486	141
1997	3,399,000	267,636	1,270	*	*	*	*	2,560	133

\*Data not available.

Sources: Vehicle Miles of Travel and Licensed Drivers — Federal Highway Administration; Registered Vehicles — R.L. Polk &amp; Co. and Federal Highway Administration; Population — U.S. Bureau of the Census.

Table 3. Restraint Use Rates for Passenger Car Occupants in Fatal Crashes, 1987 and 1997

Type of Occupant	Restraint Use Rate (Percent)	
	1987	1997
Drivers	36	60
Passengers		
Front Seat	34	58
Rear Seat	25	40
5 Years Old and Over	28	49
4 Years Old and Under	49	68
All Passengers	30	50
All Occupants	33	56

Figure 1. Intoxicated Drivers in Fatal Crashes by Age Group, 1987-1997

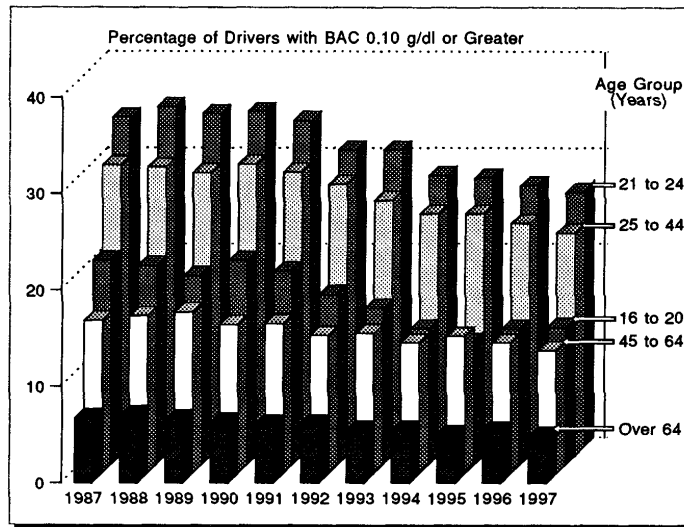


Figure 2. Previous Driving Records of Drivers Killed in Traffic Crashes, by Blood Alcohol Concentration, 1997

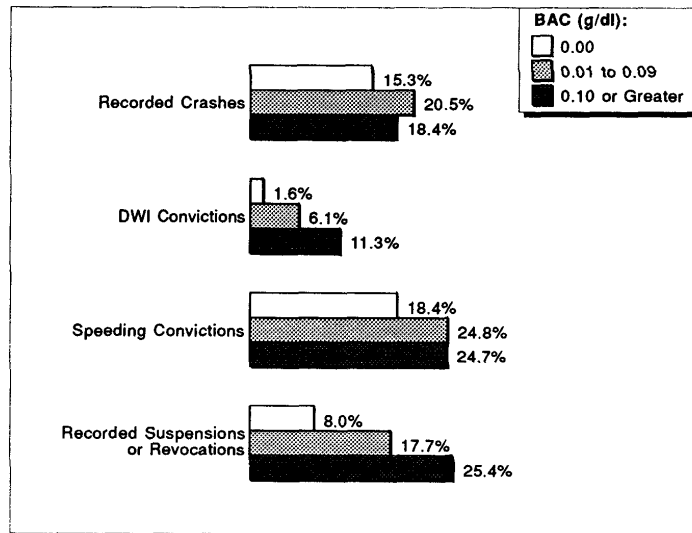


Figure 3. Fatal Crashes by Speeding Status, 1987-1997

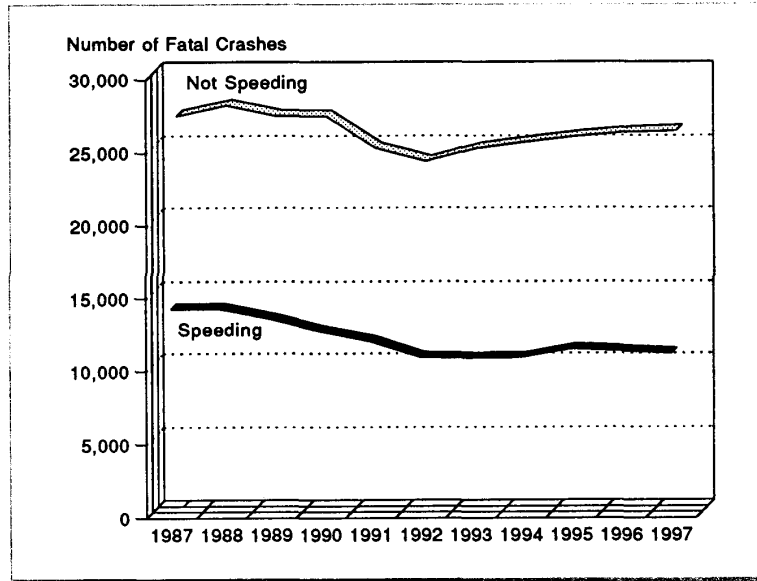


Figure 4. Speeding Drivers in Fatal Crashes by Age and Sex, 1997

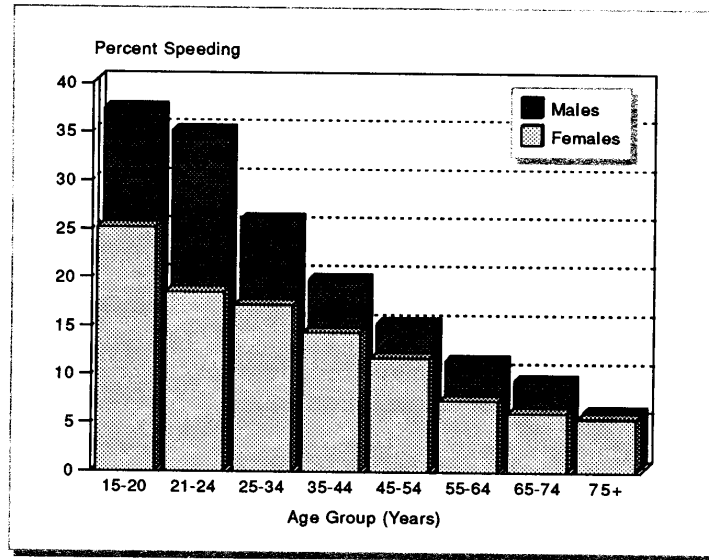


Figure 5. Percentage of All Drivers Involved in Fatal Crashes That Were Speeding, by BAC Level, 1997

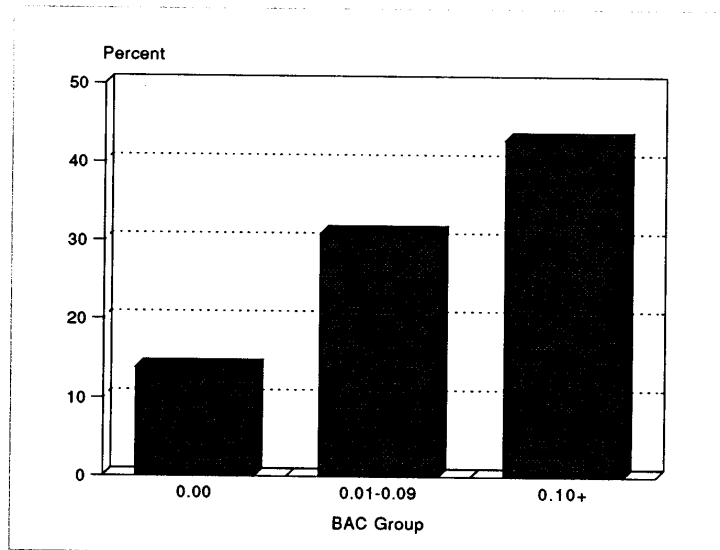


Figure 6. Speeding, Alcohol Involvement, and Failure To Use Restraints Among Drivers Involved in Fatal Crashes by Vehicle Type, 1997

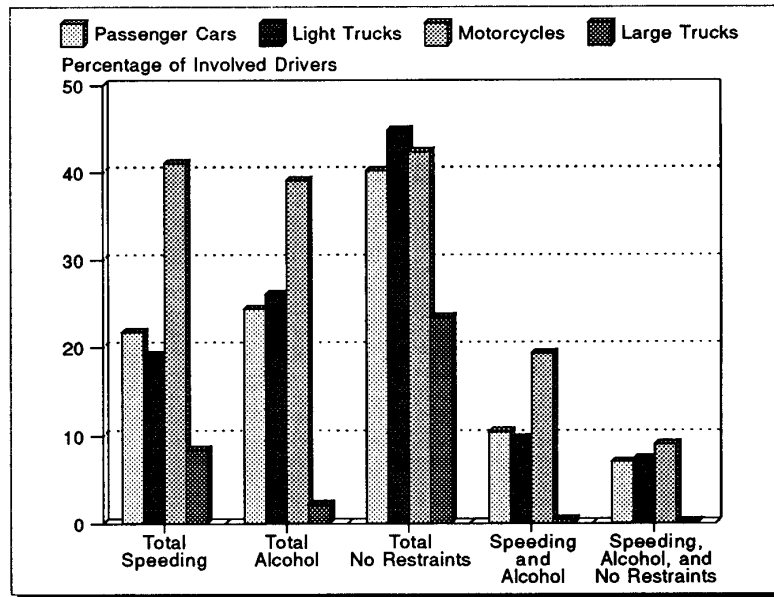


Figure 7. Fatalities in Traffic Crashes, 1987 and 1997

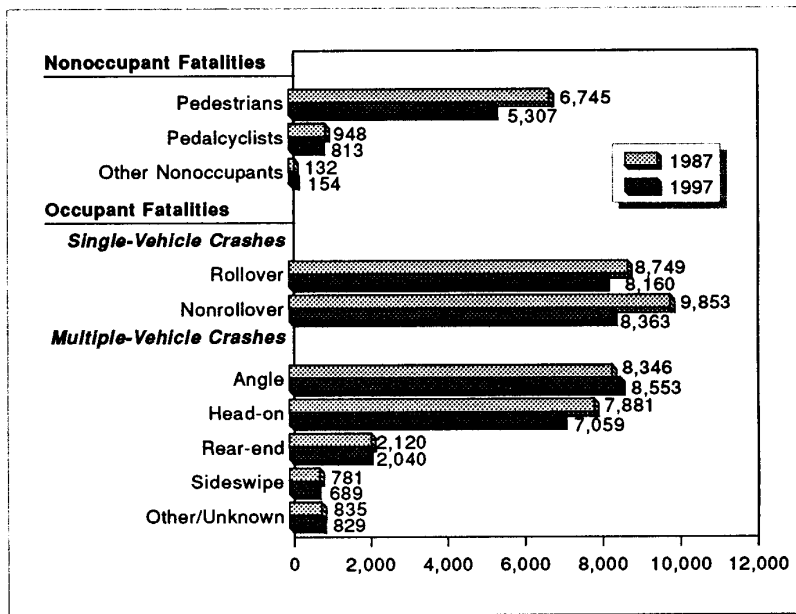




Figure 8. Driver Fatality Rates by Age and Sex, 1996

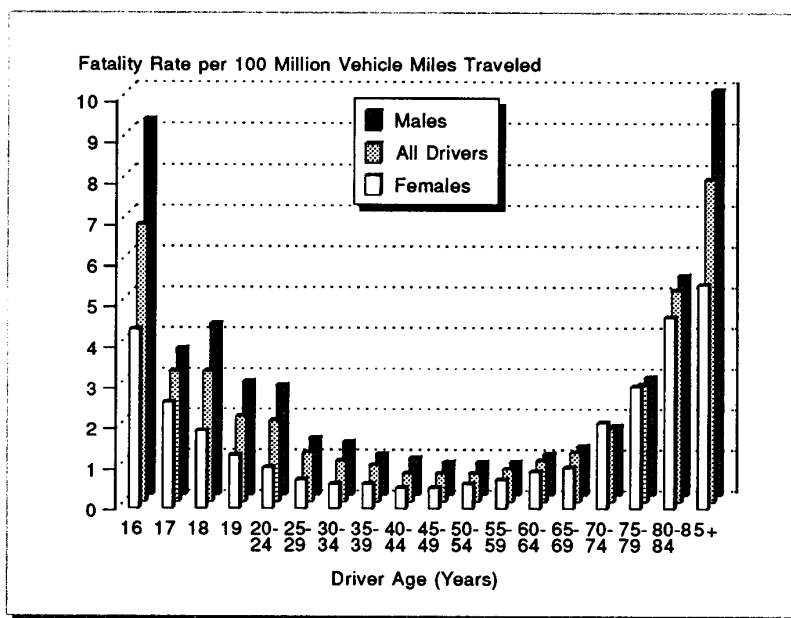


Table 5. Nonoccupant Traffic Fatalities, 1987-1997

Year	Pedestrian	Pedalcyclist	Other	Total
1987	6,745	948	132	7,825
1988	6,870	911	136	7,917
1989	6,556	832	107	7,495
1990	6,482	859	124	7,465
1991	5,801	843	124	6,768
1992	5,549	723	98	6,370
1993	5,649	816	111	6,576
1994	5,489	802	107	6,398
1995	5,584	833	109	6,526
1996	5,449	765	154	6,368
1997	5,307	813	154	6,274

## ALCOHOL

The National Highway Traffic Safety Administration (NHTSA) defines a fatal traffic crash as being alcohol-related if either a driver or a nonoccupant (e.g., pedestrian) had a blood alcohol concentration (BAC) of 0.01 grams per deciliter (g/dl) or greater in a police-reported traffic crash. Persons with a BAC of 0.10 g/dl or greater involved in fatal crashes are considered to be intoxicated. This is the legal limit of intoxication in most States.

Traffic fatalities in alcohol-related crashes fell by 6 percent from 1996 to 1997. The 16,189 alcohol-related fatalities in 1997 (38.6 percent of total traffic fatalities for the year) represent a 32 percent reduction from the 23,641 alcohol-related fatalities reported in 1987 (51.0 percent of the total).

NHTSA estimates that alcohol was involved in 39 percent of fatal crashes and in 7 percent of all crashes in 1997.

The 16,189 fatalities in alcohol-related crashes during 1997 represent an average of one alcohol-related fatality every 32 minutes.

More than 327,000 persons were injured in crashes where police reported that alcohol was present—an average of one person injured approximately every 2 minutes.

Approximately 1.5 million drivers were arrested in 1996 for driving under the influence of alcohol or narcotics. This is an arrest rate of 1 for every 122 licensed drivers in the United States (1997 data not yet available).

About 3 in every 10 Americans will be involved in an alcohol-related crash at some time in their lives.

In 1997, 30 percent of all traffic fatalities occurred in crashes in which at least one driver or nonoccupant had a BAC of 0.10 g/dl or greater. More than 68.5 of the 12,704 people killed in such crashes were themselves intoxicated. The remaining 31.5 were passengers, nonintoxicated drivers, or nonintoxicated nonoccupants.

The rate of alcohol involvement in fatal crashes is 3.5 times as high at night as during the day (59.8 percent vs. 17.0 percent). For all crashes, the alcohol involvement rate is 4.9 times as high at night (15 percent vs. 3 percent).

In 1997, 29 percent of all fatal crashes during the week were alcohol-related, compared to 52 percent on weekends. For all crashes, the alcohol involvement rate was 5 percent during the week and 12 percent during the weekend.

From 1987 to 1997, intoxication rates decreased for drivers of all age groups involved in fatal crashes. Drivers 16 to 20 years old experienced the largest decrease in intoxication rates (32 percent), followed by drivers over 64 years old (27 percent).

The highest intoxication rates in fatal crashes in 1997 were recorded for drivers 21–24 years old (26.3 percent), followed by ages 25–34 (23.8 percent) and 35–44 (22.1 percent).

Intoxication rates for drivers in fatal crashes in 1997 were highest for motorcycle operators (27.9 percent) and lowest for drivers of large trucks (1.1 percent). The intoxication rate for drivers of light trucks was higher than that for passenger car drivers (20.2 percent and 18.2 percent, respectively).

Safety belts were used by only 18.5 percent of the fatally injured intoxicated drivers (BAC of 0.10 g/dl or greater), compared to 31.8 percent of fatally injured impaired drivers (BAC between 0.01 g/dl and 0.09 g/dl) and 47.5 percent of fatally injured sober drivers.

Fatally injured drivers with BAC levels of 0.10 g/dl or greater were seven times as likely to have a prior conviction for driving while intoxicated compared to fatally injured sober drivers (11.3 percent and 1.6 percent, respectively).

Nearly one-third (33 percent) of all pedestrians 16 years of age or older killed in traffic crashes in 1997 were intoxicated. By age group, the percentages ranged from a low of 9.3 percent for pedestrians 65 and over to a high of 49.8 percent for those 25 to 34 years old.

The driver, pedestrian, or both were intoxicated in 37 percent of all fatal pedestrian crashes in 1997. In these crashes, the intoxication rate for pedestrians was more than double the rate for drivers—29.5 percent and 12.5 percent, respectively. Both the pedestrian and the driver were intoxicated in 5.3 percent of the crashes that resulted in a pedestrian fatality.

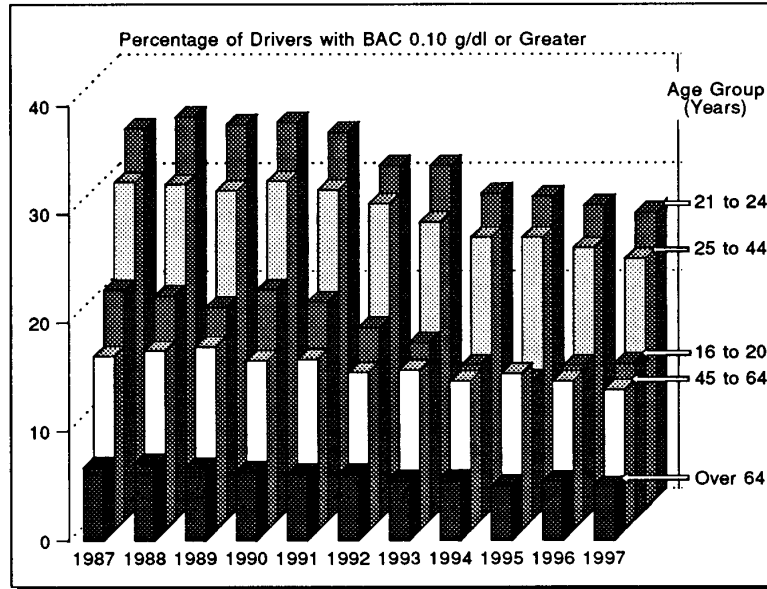
All States and the District of Columbia now have 21-year-old minimum drinking age laws. NHTSA estimates that these laws have reduced traffic fatalities involving drivers 18 to 20 years old by 13 percent and have saved an estimated 17,359 lives since 1975. In 1997, an estimated 846 lives were saved by minimum drinking age laws.

On the following pages, Tables 2, 3, 4, and 5 present summary data on alcohol involvement in fatal crashes in 1997, compared with 1987 data. Table 6 shows alcohol involvement in fatal traffic crashes by State.

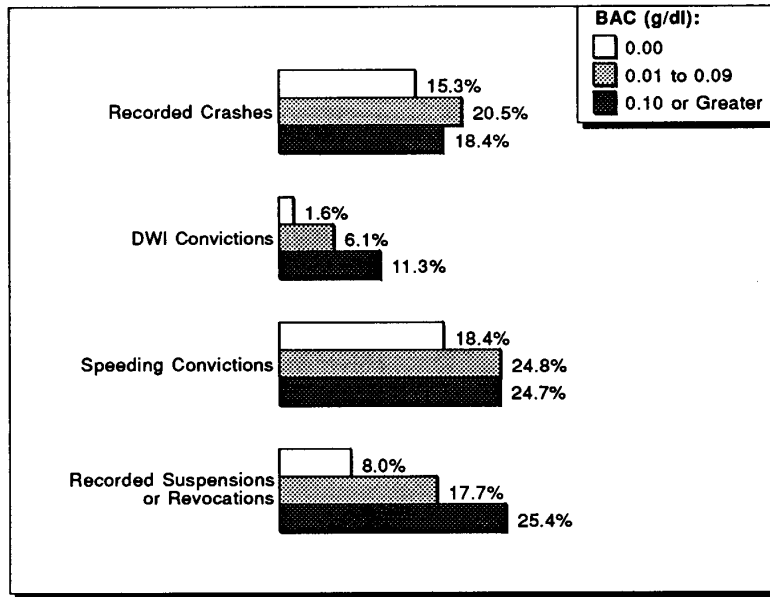
**Table 1. Types of Fatalities in Fatal Crashes Involving at Least One Intoxicated Driver or Nonoccupant, 1997**

Type of Fatality	Number	Percent of Total
Intoxicated Drivers	7,003	55
Nonintoxicated Drivers	825	6
Passengers	2,652	21
Intoxicated Nonoccupants (Pedestrians and Pedalcyclists)	1,695	13
Nonintoxicated Nonoccupants	529	4
<b>Total Fatalities</b>	<b>12,704</b>	<b>100</b>

**Figure 1. Intoxicated Drivers in Fatal Crashes by Age Group, 1987-1997**



**Figure 2. Previous Driving Records of Drivers Killed in Traffic Crashes, by Blood Alcohol Concentration, 1997**



**Figure 3. Cumulative Estimated Number of Lives Saved by Minimum Drinking Age Laws, 1975-1997**

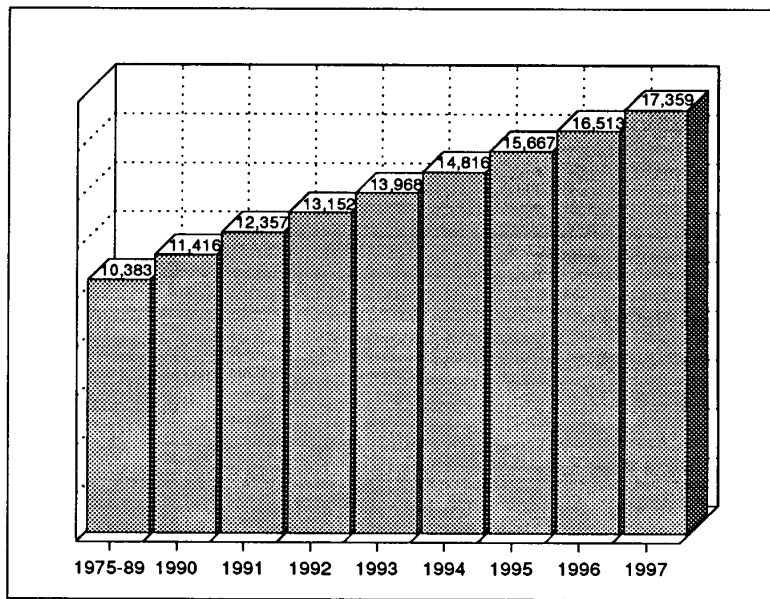


Table 2. Alcohol Involvement in Fatal Crashes, 1987 and 1997

	1987		1997		Change in Percentage, 1987-1997
	Number	Percentage with BAC 0.10 g/dl or Greater *	Number	Percentage with BAC 0.10 g/dl or Greater *	
Fatal Crashes	41,438	40.0	37,280	30.4	-24%
Total Fatalities	46,390	39.9	41,967	30.3	-24%

\* For any person (occupant or nonoccupant) involved in the fatal crash.

Table 3. Alcohol Involvement for Drivers in Fatal Crashes, 1987 and 1997

Drivers Involved in Fatal Crashes	1987		1997		Change in Percentage, 1987-1997
	Number of Drivers	Percentage with BAC 0.10 g/dl or Greater	Number of Drivers	Percentage with BAC 0.10 g/dl or Greater	
Total Drivers					
Total *	61,442	25.0	56,602	17.8	-29%
Drivers by Age Group (Years)					
16-20	9,910	21.0	7,670	14.3	-32%
21-24	8,808	34.1	5,660	26.3	-23%
25-34	16,562	32.9	12,378	23.8	-28%
35-44	9,778	25.4	10,828	22.1	-13%
45-64	9,693	15.9	11,826	12.8	-19%
Over 64	5,078	6.7	6,648	4.9	-27%
Drivers by Sex					
Male	46,884	27.6	40,658	20.3	-26%
Female	13,614	15.0	14,846	10.3	-31%
Drivers by Vehicle Type					
Passenger Cars	36,371	25.1	29,589	18.2	-27%
Light Trucks	14,407	28.7	18,414	20.2	-30%
Large Trucks	5,046	2.7	4,815	1.1	-59%
Motorcycles	4,061	38.2	2,146	27.9	-27%

\* Numbers shown for groups of drivers do not add to the total number of drivers due to unknown or other data not included.

Table 4. Alcohol Involvement for Drivers Killed in Fatal Crashes, 1987 and 1997

Driver Fatalities	1987		1997		Change in Percentage, 1987-1997
	Number of Driver Fatalities	Percentage with BAC 0.10 g/dl or Greater	Number of Driver Fatalities	Percentage with BAC 0.10 g/dl or Greater	
Total Driver Fatalities					
Total	26,833	37.7	24,644	28.4	-25%
Driver Fatalities by Crash Type and Time of Day					
Single-Vehicle	12,985	53.6	11,533	43.7	-18%
Daytime *	4,234	27.9	4,536	19.4	-30%
Nighttime **	8,485	66.2	6,739	59.7	-10%
Multiple-Vehicle	13,848	22.7	13,111	15.0	-34%
Daytime *	7,671	9.6	8,341	6.1	-36%
Nighttime **	6,162	39.0	4,758	30.7	-21%
Driver Fatalities by Day of Week					
Weekday ***	15,143	29.3	14,726	20.7	-29%
Weekend ****	11,606	48.4	9,843	39.9	-18%
Driver Fatalities by Time of Day					
Daytime *	11,905	16.1	12,877	10.8	-33%
Nighttime **	14,647	54.7	11,497	47.7	-13%
Driver Fatalities by Day of Week and Time of Day					
Weekday ***					
Daytime *	8,594	12.7	9,407	8.5	-33%
Nighttime **	6,468	50.9	5,228	42.1	-17%
Weekend ****					
Daytime *	3,311	25.0	3,470	16.8	-33%
Nighttime **	8,179	57.7	6,269	52.4	-9%

\* 6:00 AM to 6:00 PM.

\*\* 6:00 PM to 6:00 AM.

\*\*\* Monday 6:00 AM to Friday 6:00 PM.

\*\*\*\* Friday 6:00 PM to Monday 6:00 AM.

Table 5. Alcohol Involvement for Nonoccupants Killed in Fatal Crashes, 1987 and 1997

Nonoccupant Fatalities	1987		1997		Change in Percentage, 1987-1997
	Number of Nonoccupant Fatalities	Percentage with BAC 0.10 g/dl or Greater	Number of Nonoccupant Fatalities	Percentage with BAC 0.10 g/dl or Greater	
Pedestrian Fatalities by Age Group (Years)					
16-20	453	34.5	300	28.5	-17%
21-24	478	49.1	253	43.1	-12%
25-34	1,071	53.7	757	49.8	-7%
35-44	840	48.9	922	47.4	-3%
45-64	1,272	37.8	1,189	31.9	-16%
Over 64	1,483	10.8	1,156	9.3	-14%
Total *	6,745	30.7	5,307	29.1	-5%
Pedalcyclist Fatalities					
Total	948	14.2	813	17.3	22%

\* Includes pedestrians under 16 years old and pedestrians of unknown age.

Table 6. Traffic Fatalities by State and Highest Blood Alcohol Concentration in the Crash, 1997

State	Total Traffic Fatalities	No Alcohol (BAC = 0.00 g/dl)		Low Alcohol (BAC = 0.01-0.09 g/dl)		High Alcohol (BAC ≥ 0.10 g/dl)		Any Alcohol (BAC ≥ 0.01 g/dl)	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
Alabama	1,189	716	60.2	96	8.0	377	31.7	473	39.8
Alaska	77	36	47.2	12	15.2	29	37.7	41	52.8
Arizona	951	518	54.5	86	9.0	347	36.5	433	45.5
Arkansas	660	467	70.8	51	7.7	142	21.6	193	29.2
California	3,688	2,374	64.4	331	9.0	982	26.6	1,314	35.6
Colorado	613	395	64.4	45	7.3	174	28.3	218	35.6
Connecticut	338	186	55.0	36	10.7	116	34.3	152	45.0
Delaware	143	82	57.3	20	14.1	41	28.6	61	42.7
District of Columbia	60	25	41.5	6	10.1	29	48.4	35	58.5
Florida	2,782	1,848	66.4	181	6.5	753	27.1	934	33.6
Georgia	1,577	999	63.4	138	8.8	440	27.9	578	36.6
Hawaii	131	72	55.3	12	8.9	47	35.8	59	44.7
Idaho	259	157	60.4	16	6.2	86	33.4	102	39.6
Illinois	1,395	808	57.9	123	8.8	464	33.3	587	42.1
Indiana	935	627	67.1	52	5.6	256	27.4	308	32.9
Iowa	468	294	62.8	48	10.2	126	27.0	174	37.2
Kansas	481	339	70.5	34	7.1	108	22.4	142	29.5
Kentucky	857	578	67.4	53	6.1	227	26.5	279	32.6
Louisiana	913	492	53.9	96	10.5	326	35.7	421	46.1
Maine	192	128	66.6	9	4.8	55	28.6	64	33.4
Maryland	608	387	63.7	57	9.3	164	27.0	221	36.3
Massachusetts	442	233	52.6	60	13.7	149	33.7	209	47.4
Michigan	1,446	888	61.4	126	8.7	432	29.9	558	38.6
Minnesota	600	407	67.8	32	5.4	161	26.8	193	32.2
Mississippi	861	517	60.0	58	6.7	286	33.3	344	40.0
Missouri	1,192	683	57.3	124	10.4	385	32.3	509	42.7
Montana	265	145	54.7	20	7.7	100	37.6	120	45.3
Nebraska	302	197	65.4	22	7.4	82	27.3	105	34.6
Nevada	347	187	53.8	43	12.4	117	33.8	160	46.2
New Hampshire	125	65	52.3	13	10.3	47	37.4	60	47.7
New Jersey	774	492	63.6	79	10.3	202	26.1	282	36.4
New Mexico	484	264	54.5	47	9.8	173	35.7	220	45.5
New York	1,643	1,194	72.6	115	7.0	334	20.3	449	27.4
North Carolina	1,483	955	64.4	101	6.8	427	28.8	528	35.6
North Dakota	105	55	52.2	4	3.6	46	44.3	50	47.8
Ohio	1,441	965	67.0	92	6.4	384	26.6	476	33.0
Oklahoma	838	536	64.0	62	7.4	240	28.6	302	36.0
Oregon	523	295	56.5	55	10.6	173	33.0	228	43.5
Pennsylvania	1,557	926	59.5	118	7.6	514	33.0	631	40.5
Rhode Island	75	34	45.4	8	10.3	33	44.3	41	54.6
South Carolina	903	585	64.8	45	5.0	273	30.2	318	35.2
South Dakota	148	87	58.7	15	10.0	46	31.4	61	41.3
Tennessee	1,223	727	59.4	90	7.4	406	33.2	496	40.6
Texas	3,510	1,762	50.2	379	10.8	1,369	39.0	1,748	49.8
Utah	366	291	79.4	25	6.8	50	13.7	75	20.6
Vermont	96	62	64.2	8	8.6	26	27.1	34	35.8
Virginia	984	601	61.1	85	8.6	298	30.3	383	38.9
Washington	676	376	55.6	68	10.1	232	34.3	300	44.4
West Virginia	379	233	61.4	17	4.4	129	34.2	146	38.6
Wisconsin	725	396	54.7	64	8.8	265	36.6	329	45.3
Wyoming	137	94	68.5	9	6.6	34	24.9	43	31.5
<b>U.S. Total</b>	<b>41,967</b>	<b>25,778</b>	<b>61.4</b>	<b>3,485</b>	<b>8.3</b>	<b>12,704</b>	<b>30.3</b>	<b>16,189</b>	<b>38.6</b>
Puerto Rico	591	299	50.5	65	10.9	228	38.6	292	49.5

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## CHILDREN

In 1997, there were almost 58 million children under 15 years old in the United States. This age group (0–14 years) made up 22 percent of the total U.S. resident population in 1997.

Motor vehicle crashes are the leading cause of death for children of every age from 6 to 14 years old (based on 1994 figures, which are the latest mortality data currently available from the National Center for Health Statistics).

In 1997, there were a total of 41,967 traffic fatalities in the United States. The 0–14 age group accounted for 6 percent (2,656) of those traffic fatalities. In addition, children under 15 years old accounted for 5 percent (1,791) of all vehicle occupant fatalities, 10 percent (331,000) of all the people injured in motor vehicle crashes, and 9 percent (282,000) of all the vehicle occupants injured in crashes.

In the United States, an average of 7 children 0–14 years old were killed and 908 were injured every day in motor vehicle crashes during 1997.

In the 0–14 year age group, males accounted for 56 percent of the fatalities and 49 percent of those injured in motor vehicle crashes during 1997.

#### CHILD ENDANGERMENT

In 1997, 21 percent of the children under 15 years old who were killed in motor vehicle crashes were killed in alcohol-related crashes.

Of the children 0–14 years old who were killed in alcohol-related crashes during 1997, almost half (261) were passengers in vehicles with drivers who had been drinking, with blood alcohol concentration (BAC) levels of 0.01 gram per deciliter (g/dl) or higher. An additional 137 children were killed as passengers in vehicles with drivers who had not been drinking.

Another 93 children under 15 years old who were killed in traffic crashes in 1997 were pedestrians or pedalcyclists who were struck by drinking drivers (BAC  $\geq$  0.01 g/dl).

#### PEDESTRIANS

In 1987, there were 1,000 pedestrian fatalities in the 0–14-year age group. From 1987 to 1997, the number of pedestrian fatalities in this age group decreased by 41 percent, with the 5–9 year age group showing the largest decrease.

There were 5,307 pedestrian fatalities in 1997. The 0–14-year age group accounted for 592 (11 percent) of those fatalities, and 60 percent of the pedestrian fatalities in this age group were males.

In addition to the pedestrians under 15 years old who died, 24,000 were injured in motor vehicle crashes. These young pedestrians accounted for 31 percent of the total pedestrians injured in motor vehicle crashes in 1997.

More than one-fifth (22 percent) of the traffic fatalities in the 0–14-year age group were pedestrians.

During 1997, 41 percent of the young pedestrian fatalities occurred between the hours of 4 p.m. and 8 p.m., and 83 percent occurred at non-intersection locations.

#### PEDALCYCLISTS

A total of 813 pedalcyclists were killed in motor vehicle crashes in 1997. Children 0–14 years old accounted for 232 (29 percent) of those fatalities.

In 1997, 40 percent of the pedalcyclists injured in motor vehicle crashes were under 15 years old.

The 232 pedalcyclist fatalities in 1997 for the 0–14-year age group represent a decrease of 42 percent from the 397 killed in 1987.

Bicycle helmets are 85 to 88 percent effective in mitigating head and brain injuries in all types of bicycle incidents, making the use of helmets the single most effective countermeasure available to reduce head injuries and fatalities resulting from bicycle crashes. (Source: Robert Thompson, A Case Control Study of the Effectiveness of Bicycle Safety Helmets. Centers for Disease Control.)

#### RESTRAINTS

Research has shown that lap/shoulder safety belts, when used, reduce the risk of fatal injury to front seat occupants (age 5 years and older) of passenger cars by 45 percent and the risk of moderate-to-critical injury by 50 percent. For light truck occupants, safety belts reduce the risk of fatal injury by 60 percent and the risk of moderate-to-critical injury by 65 percent.

During 1997, 9,069 motor vehicle occupants under 15 years old were involved in fatal crashes. For those children, where restraint use was known, 46 percent were unrestrained; among those who were fatally injured, 63 percent were unrestrained.

Research on the effectiveness of child safety seats has found that they reduce the risk of fatal injury by 69 percent for infants (less than 1 year old) and by 47 percent for toddlers (1–4 years old).

In 1997, there were 604 occupant fatalities among children under 5 years of age. Of those 604 fatalities, an estimated 329 (54 percent) were totally unrestrained.

From 1975 through 1997, an estimated 3,894 lives were saved by the use of child restraints (child safety seats or adult belts). In 1997, an estimated 312 children under age 5 were saved as a result of child restraint use.

If 100 percent of motor vehicle occupants under 5 years old were protected by child safety seats, an estimated 495 lives (that is, an additional 183) could have been saved in 1997.

In 1996, NHTSA conducted the National Occupant Protection Use Survey (NOPUS). One of the studies in the survey was the Controlled Intersection Study,

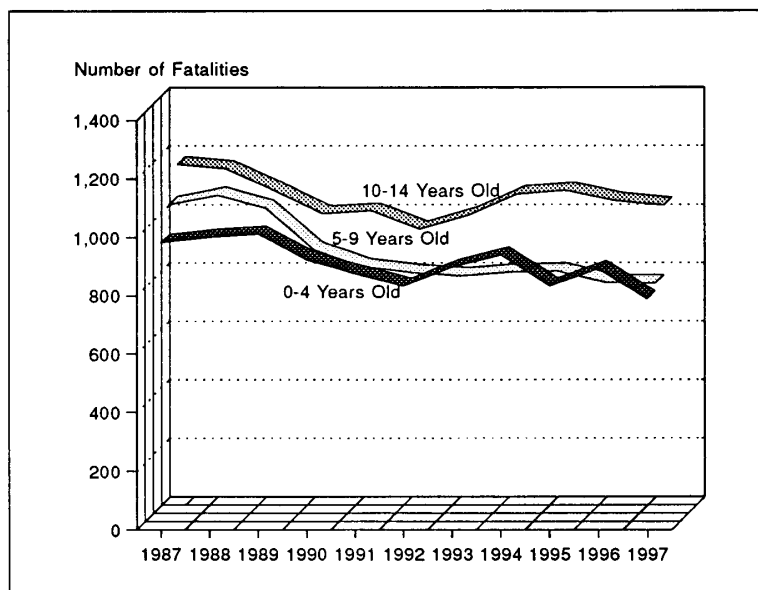


which provided more detailed information about child restraint use for children under 5 years old.

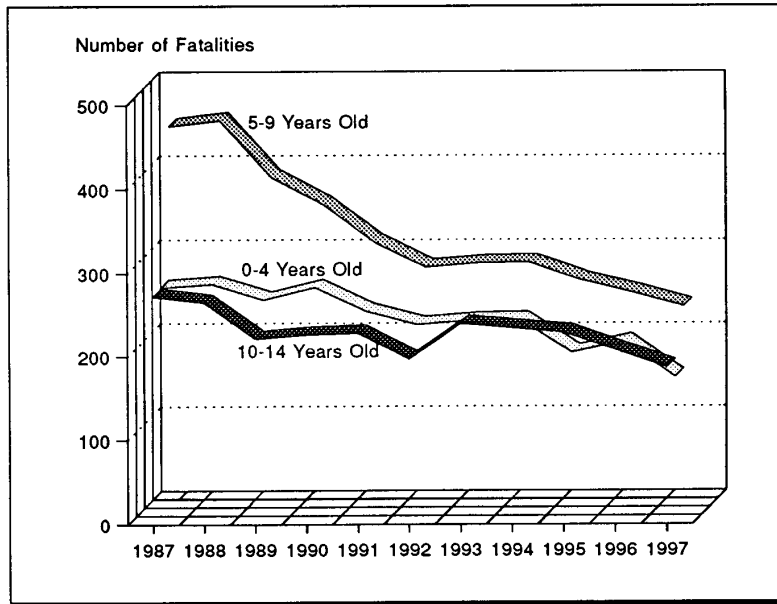
Failure to read the child safety seat instructions, in addition to vehicle owner manual instructions regarding safety belts, could result in serious injury or death as a result of a failure of the child safety seat to be securely and/or properly restrained.

Children in rear-facing child seats should not be placed in the front seat of vehicles equipped with passenger-side air bags. The impact of a deploying air bag striking a rear-facing child seat could result in injury to the child. NHTSA also recommends that children 12 and under sit in the rear seat away from the force of a deploying air bag.

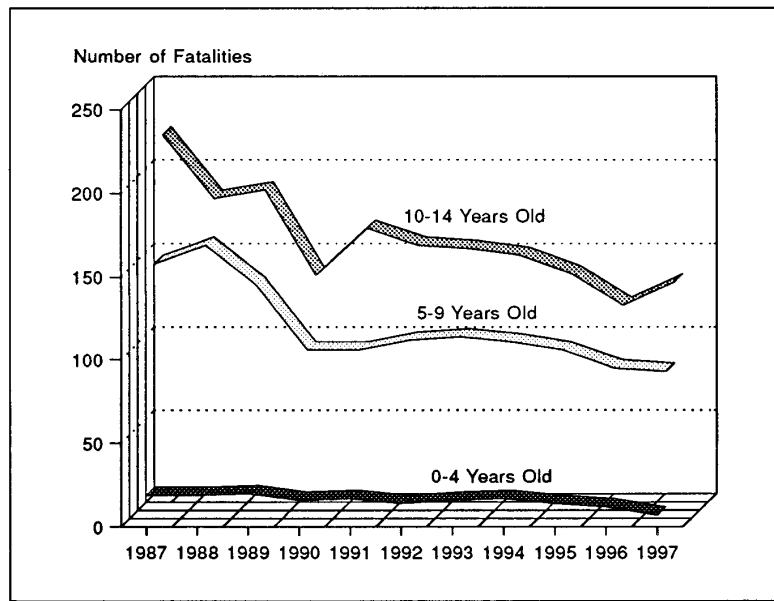
**Figure 1. Total Traffic Fatalities Among Children 0-14 Years Old by Age Group, 1987-1997**



**Figure 2. Total Pedestrian Fatalities Among Children 0-14 Years Old by Age Group, 1987-1997**



**Figure 3. Total Pedalcyclist Fatalities Among Children 0-14 Years Old by Age Group, 1987-1997**



**Table 1. Restraint Use by Motor Vehicle Occupants Involved in Fatal Crashes by Age Group, 1997**

Percentage Unrestrained	Age Group (Years)					
	0-4	5-9	10-14	15-20	All Other	Total
	35	46	57	57	43	46

**Table 2. Children Under 5 Years Old Fatally Injured in Motor Vehicle Crashes by Age Group and Type of Restraint, 1997**

Type of Restraint	Infants (Under Age 1)	Toddlers (Age 1-4)	Total
None Used	62	266	329
Child Seat	71	123	194
Adult Seat Belt	2	79	81
<b>Total</b>	<b>135</b>	<b>469</b>	<b>604</b>

Note: In this table, fatalities with unknown restraint use have been distributed proportionally across the known restraint use categories.

**Table 3. Restraint Use by Children Under 5 Years Old**

Grouping	Restraint Use (Percent)	Grouping	Restraint Use (Percent)
Overall	61.2	Rush Hour	55.2
Infants (<1 Year)	85.2	Non-Rush Hour	62.0
Toddlers (1 to 4 Years)	60.1	Weekday	62.2
Passenger Cars	56.5	Weekend	52.6
Light Trucks	68.7	City	68.9
Front Seat	61.0	Suburban	78.6
Back Seat	61.5	Rural	35.6

#### LARGE TRUCKS

In 1997, 444,000 large trucks (gross vehicle weight rating greater than 10,000 pounds) were involved in traffic crashes in the United States; 4,871 were involved in fatal crashes. A total of 5,355 people died (13 percent of all the traffic fatalities reported in 1997) and an additional 133,000 were injured in those crashes.

Large trucks accounted for 3 percent of all registered vehicles, 7 percent of total vehicle miles traveled, 9 percent of all vehicles involved in fatal crashes, and 3 percent of all vehicles involved in injury and property-damage-only crashes in 1996 (1997 registered vehicle and vehicle miles traveled data not available).

One out of eight traffic fatalities in 1997 resulted from a collision involving a large truck.

Of the fatalities that resulted from crashes involving large trucks, 78 percent were occupants of another vehicle, 8 percent were nonoccupants, and 13 percent were occupants of a large truck.

Of the injuries that resulted from crashes involving large trucks, 75 percent were occupants of another vehicle, 2 percent were nonoccupants, and 24 percent were occupants of a large truck.

Large trucks were much more likely to be involved in a fatal multiple-vehicle crash—as opposed to a fatal single-vehicle crash—than were passenger vehicles (82 percent of all large trucks involved in fatal crashes, compared with 62 percent of all passenger vehicles).

In 30 percent of the two-vehicle fatal crashes involving a large truck and another type of vehicle, both vehicles were impacted in the front. The truck was struck in the rear 3 times as often as the other vehicle (18 percent and 6 percent, respectively).

In half of the two-vehicle fatal crashes involving a large truck and another type of vehicle, both vehicles were proceeding straight at the time of the crash. In 10 percent of the crashes, the other vehicle was turning. In 9 percent, either the truck or the other vehicle was negotiating a curve. In 8 percent, either the truck or the other vehicle was stopped or parked in a traffic lane (6 percent and 2 percent, respectively).

Most of the fatal crashes involving large trucks occurred in rural areas (67 percent), during the daytime (66 percent), and on weekdays (79 percent). During the week, 73 percent of the crashes occurred during the daytime (6 a.m. to 5:59 p.m.). On weekends, 62 percent occurred at night (6 p.m. to 5:59 a.m.).

The percentage of large truck drivers involved in fatal crashes who were intoxicated—with blood alcohol concentrations (BAC) of 0.10 grams per deciliter (g/dl) or greater—was 1.1 percent in 1997. These drivers have also shown the largest decrease in intoxication rates since 1987 (59 percent). Intoxication rates for drivers of other types of vehicles involved in fatal crashes in 1997 were 18.2 percent for passenger cars, 20.2 percent for light trucks, and 27.9 percent for motorcycles.

Drivers of large trucks were less likely to have a previous license suspension or revocation than were passenger car drivers (7 percent and 12 percent, respectively).

Almost 30 percent of all large truck drivers involved in fatal crashes in 1997 had at least one prior speeding conviction, compared to just under 20 percent of the passenger car drivers involved in fatal crashes.

**Table 1. Involvement in Fatal and Injury Crashes and Involvement Rates for Large Trucks, 1987-1997**

Year	Number of Large Trucks Involved in Fatal Crashes	Number of Large Trucks Registered	Vehicle Involvement Rate *	Vehicle Miles Traveled (millions)	Vehicle Involvement Rate **
1987	5,108	5,303,094	96.3	135,601	3.8
1988	5,241	5,433,560	96.5	141,397	3.7
1989	4,984	5,840,466	85.3	148,318	3.4
1990	4,776	5,854,337	81.6	149,810	3.2
1991	4,347	5,854,673	74.2	150,729	2.9
1992	4,035	5,970,925	67.6	152,803	2.6
1993	4,328	6,191,889	69.9	159,402	2.7
1994	4,644	6,303,314	73.7	170,216	2.7
1995	4,472	6,719,421	66.6	178,156	2.5
1996	4,755	7,006,408	67.9	182,756	2.6
1997	4,871	--	--	--	--

Year	Number of Large Trucks Involved in Injury Crashes	Number of Large Trucks Registered	Vehicle Involvement Rate *	Vehicle Miles Traveled (millions)	Vehicle Involvement Rate **
1988	96,000	5,433,560	1,764	141,397	68
1989	110,000	5,840,466	1,887	148,318	74
1990	107,000	5,854,337	1,830	149,810	72
1991	78,000	5,854,673	1,332	150,729	52
1992	95,000	5,970,925	1,586	152,803	62
1993	97,000	6,191,889	1,564	159,402	61
1994	96,000	6,303,314	1,523	170,216	56
1995	84,000	6,719,421	1,250	178,156	47
1996	94,000	7,006,408	1,342	182,756	51
1997	97,000	--	--	--	--

\* Rate per 100,000 registered vehicles.

\*\* Rate per 100 million vehicle miles traveled.

-- = not available.

Source: Vehicle miles traveled and registered vehicles — Federal Highway Administration.

**Table 2. Fatalities and Injuries in Crashes Involving Large Trucks, 1997**

Type of Fatality	Number	Percentage of Total
Occupants of Large Trucks	717	13
<i>Single-Vehicle Crashes</i>	496	9
<i>Multiple-Vehicle Crashes</i>	221	4
Occupants of Other Vehicles in Crashes Involving Large Trucks	4,189	78
Nonoccupants (Pedestrians, Pedalcyclists, etc.)	449	8
<b>Total</b>	<b>5,355</b>	<b>100</b>

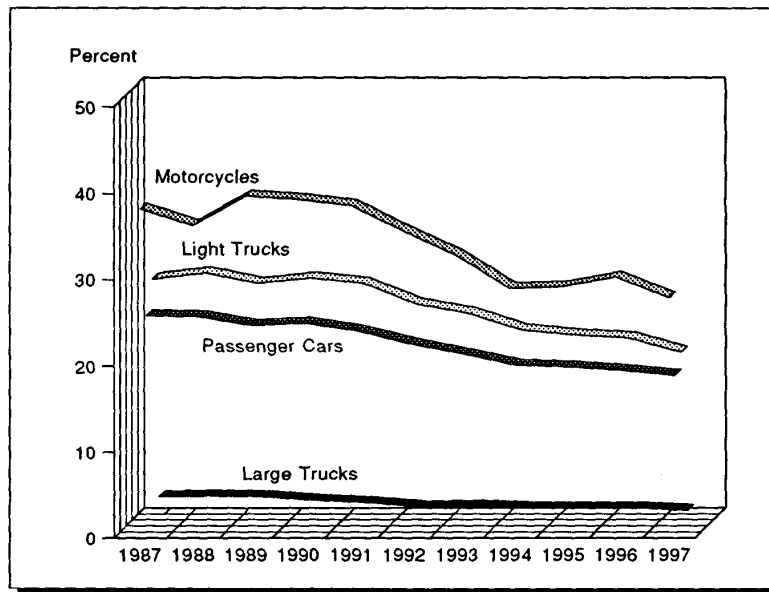
  

Type of Injury	Number	Percentage of Total
Occupants of Large Trucks	31,000	24
<i>Single-Vehicle Crashes</i>	14,000	11
<i>Multiple-Vehicle Crashes</i>	17,000	13
Occupants of Other Vehicles in Crashes Involving Large Trucks	99,000	75
Nonoccupants (Pedestrians, Pedalcyclists, etc.)	2,000	2
<b>Total</b>	<b>133,000</b>	<b>100</b>

**Table 3. Principal Impact Points in Two-Vehicle Fatal Crashes Involving Large Trucks, 1997**

Impact Point on Large Truck	Impact Point on Other Vehicle				
	Front	Left Side	Right Side	Rear	Total
Front	30%	17%	13%	6%	66%
Left Side	9%	<1%	<1%	<1%	10%
Right Side	4%	<1%	<1%	<1%	6%
Rear	17%	<1%	<1%	<1%	18%
<b>Total</b>	<b>60%</b>	<b>20%</b>	<b>14%</b>	<b>6%</b>	<b>100%</b>

**Figure 1. Estimated Proportions of Drivers in Fatal Crashes With BAC 0.10 g/dl or Greater, 1987-1997**





**Figure 2. Previous Driving Records of Drivers Involved in Fatal Traffic Crashes, by Type of Vehicle, 1997**

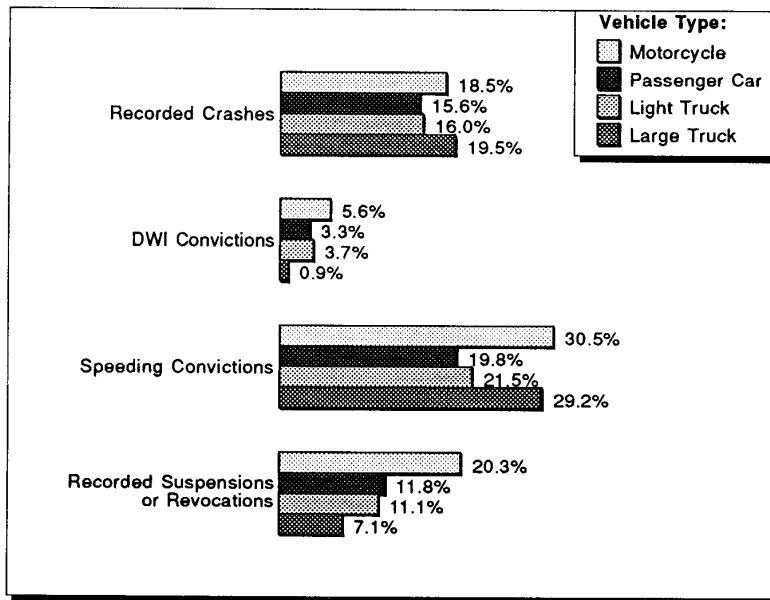


Table 4. Large Truck Involvement in Fatal Crashes by State, 1997

State	Total Vehicles Involved in Fatal Crashes	Large Trucks Involved in Fatal Crashes		
		Number	Percentage of Total Vehicles	Percentage of U.S. Total for Large Trucks
Alabama	1,633	166	10.2	3.4
Alaska	94	7	7.4	0.1
Arizona	1,263	72	5.7	1.5
Arkansas	859	113	13.2	2.3
California	4,909	369	7.5	7.6
Colorado	813	75	9.2	1.5
Connecticut	450	23	5.1	0.5
Delaware	189	15	7.9	0.3
District of Columbia	96	3	3.1	0.1
Florida	3,968	284	7.2	5.8
Georgia	2,178	218	10.0	4.5
Hawaii	181	3	1.7	0.1
Idaho	305	30	9.8	0.6
Illinois	1,915	166	8.7	3.4
Indiana	1,353	159	11.8	3.3
Iowa	652	75	11.5	1.5
Kansas	652	80	12.3	1.6
Kentucky	1,165	108	9.3	2.2
Louisiana	1,189	122	10.3	2.5
Maine	267	21	7.9	0.4
Maryland	920	88	9.6	1.8
Massachusetts	589	38	6.5	0.8
Michigan	2,065	127	6.2	2.6
Minnesota	848	88	10.4	1.8
Mississippi	1,110	99	8.9	2.0
Missouri	1,612	139	8.6	2.9
Montana	298	24	8.1	0.5
Nebraska	404	46	11.4	0.9
Nevada	486	27	5.6	0.6
New Hampshire	173	12	6.9	0.2
New Jersey	1,072	77	7.2	1.6
New Mexico	571	51	8.9	1.0
New York	2,219	142	6.4	2.9
North Carolina	2,017	195	9.7	4.0
North Dakota	131	12	9.2	0.2
Ohio	1,999	203	10.2	4.2
Oklahoma	1,105	96	8.7	2.0
Oregon	673	76	11.3	1.6
Pennsylvania	2,203	166	7.5	3.4
Rhode Island	100	2	2.0	0.0
South Carolina	1,186	89	7.5	1.8
South Dakota	180	15	8.3	0.3
Tennessee	1,673	129	7.7	2.6
Texas	4,732	410	8.7	8.4
Utah	460	46	10.0	0.9
Vermont	141	15	10.6	0.3
Virginia	1,350	117	8.7	2.4
Washington	882	77	8.7	1.6
West Virginia	528	52	9.8	1.1
Wisconsin	967	80	8.3	1.6
Wyoming	153	24	15.7	0.5
<b>U.S. Total</b>	<b>56,978</b>	<b>4,871</b>	<b>8.5</b>	<b>100.0</b>
Puerto Rico	739	31	4.2	--

Note: Totals may not equal sum of components due to independent rounding.

#### OLDER POPULATION

There are more than 24 million people age 70 years and older in the United States. In 1997, this age group made up 9 percent of the total U.S. resident population, compared with 8 percent in 1987. From 1987 to 1997, this older segment of the population grew 2.1 times as fast as the total population.

There were 17.1 million older licensed drivers in 1996 (1997 data not available)—a 45 percent increase from the number in 1986. In contrast, the total number of licensed drivers increased by only 13 percent from 1986 to 1996. Older drivers made up 10 percent of all licensed drivers in 1996, compared with 7 percent in 1986.

In 1997, 175,000 older individuals were injured in traffic crashes, accounting for 5 percent of all the people injured in traffic crashes during the year. These older

individuals made up 14 percent of all traffic fatalities, 13 percent of all vehicle occupant fatalities, and 17 percent of all pedestrian fatalities.

Most traffic fatalities involving older drivers in 1997 occurred during the daytime (82 percent), on weekdays (71 percent), and involved another vehicle (75 percent).

In two-vehicle fatal crashes involving an older driver and a younger driver, the vehicle driven by the older person was nearly 3 times as likely to be the one that was struck (55 percent and 20 percent, respectively). In 44 percent of these crashes, both vehicles were proceeding straight at the time of the collision. In 28 percent, the older driver was turning left—7 times as often as the younger driver.

Older drivers involved in fatal crashes had the lowest proportion of intoxication—with blood alcohol concentrations (BAC) of 0.10 grams per deciliter (g/dl) or greater—of all adult drivers. Fatally injured older pedestrians also had the lowest intoxication rate of all adult pedestrian fatalities.

More than two-thirds (70 percent) of all older occupants of passenger cars involved in fatal crashes were using restraints at the time of the crash, compared to 55 percent for other adult occupants (18 to 69 years old).

For older people, 67 percent of pedestrian fatalities in 1997 occurred at non-intersection locations. For other pedestrians, 82 percent of fatalities occurred at non-intersection locations.

When driver fatality rates are calculated on the basis of estimated annual travel, the highest rates are found among the youngest and oldest drivers. Compared with the fatality rate for drivers 25 through 69 years old, the rate for drivers in the oldest group is 9 times as high.

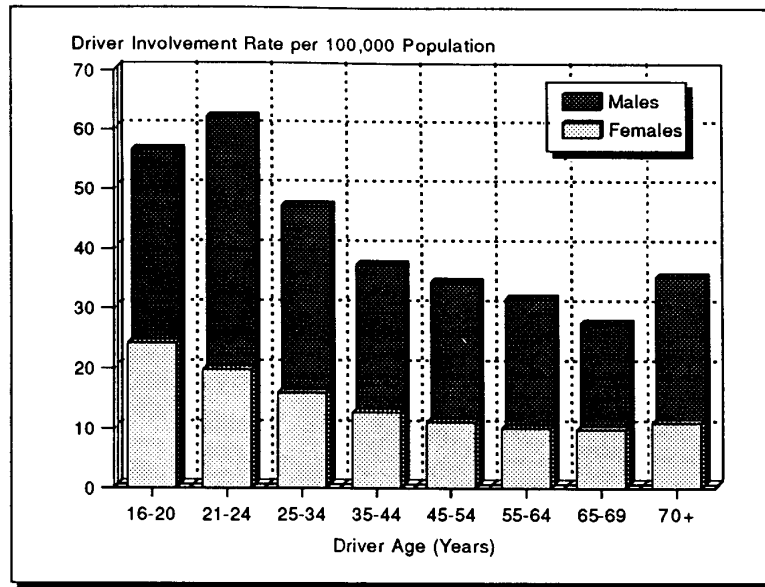
**Table 1. Age and Alcohol, 1997**

Age Group (years)	Drivers Involved in Fatal Crashes			Pedestrian Fatalities		
	Total	Intoxicated	Percentage Intoxicated	Total	Intoxicated	Percentage Intoxicated
<16	343	12	3.5	644	25	3.9
16–20	7,670	1,095	14.3	300	86	28.5
21–34	18,038	4,428	24.5	1,010	486	48.1
35–54	18,290	3,492	19.1	1,623	688	42.4
55–69	6,084	547	9.0	730	173	23.7
70+	4,928	187	3.8	914	63	6.9
<b>Total</b>	<b>* 56,602</b>	<b>10,080</b>	<b>17.8</b>	<b>** 5,307</b>	<b>1,544</b>	<b>29.1</b>

\* Includes 1,249 drivers of unknown age.

\*\* Includes 86 pedestrian fatalities of unknown age.

**Figure 1. Driver Involvement Rates in Fatal Crashes by Age and Sex, 1997**



**Figure 2. Motor Vehicle Traffic Fatality Rates by Age Group, 1987-1997**

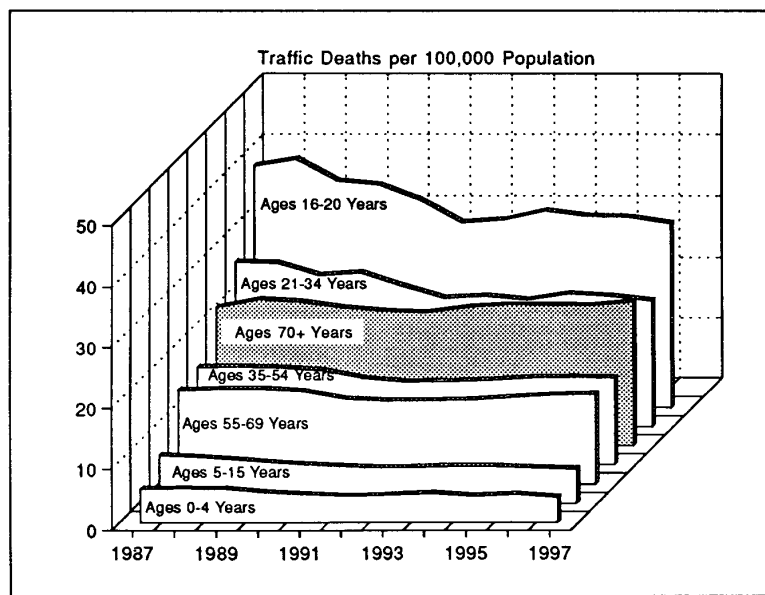


Figure 3. Driver Fatality Rates by Age and Sex, 1996

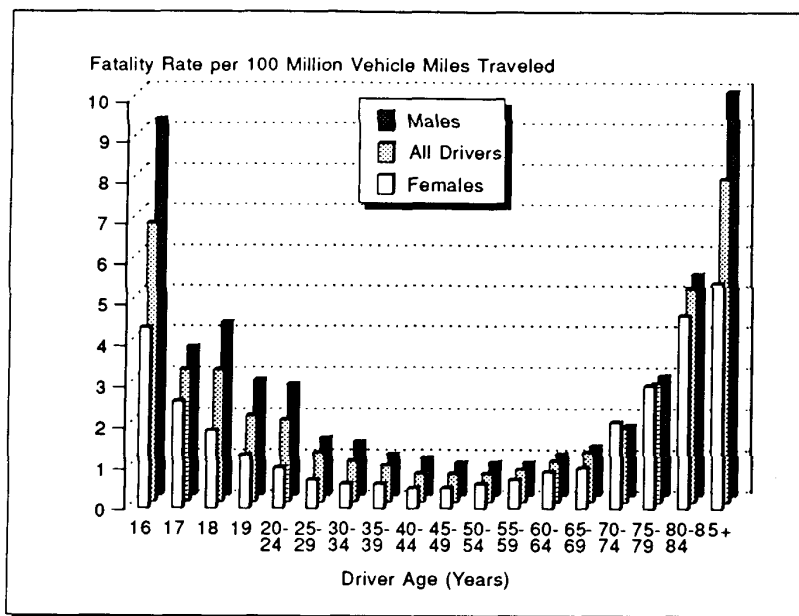


Table 2. Involvement of the Older Population In Traffic Fatalities, 1987 and 1997

	1987			1997			Percentage Change, 1987-1997		
	Total	Age 70+	Percentage of Total	Total	Age 70+	Percentage of Total	Number Total	Number Age 70+	Percentage Age 70+
<i>Population (thousands)</i>									
Total	242,289	19,891	8.2	267,636	24,313	9.1	+10%	+22%	-11%
Male	117,961	7,524	6.4	131,018	9,548	7.3	+11%	+27%	-14%
Female	124,328	12,367	9.9	136,618	14,765	10.8	+10%	+19%	-9%
<i>Drivers Involved in Fatal Crashes</i>									
Total	61,442	3,474	5.7	56,602	4,928	8.7	-8%	+42%	+54%
Male	46,884	2,452	5.2	40,658	3,308	8.1	-13%	+35%	+56%
Female	13,614	1,022	7.5	14,846	1,620	10.9	+9%	+59%	+45%
<i>Driver Fatalities</i>									
Total	26,833	2,196	8.2	24,644	3,364	13.7	-8%	+53%	+67%
Male	20,688	1,538	7.4	17,767	2,211	12.4	-14%	+44%	+67%
Female	6,143	658	10.7	6,750	1,153	17.1	+10%	+75%	+59%
<i>Total Traffic Fatalities</i>									
Total	46,390	4,555	9.8	41,967	5,802	13.8	-10%	+27%	+41%
Male	32,621	2,553	7.8	27,658	3,190	11.5	-15%	+25%	+47%
Female	13,757	2,001	14.5	14,068	2,612	18.6	+2%	+31%	+28%
<i>Occupant Fatalities</i>									
Total	38,565	3,353	8.7	35,693	4,815	13.5	-7%	+44%	+55%
Male	26,919	1,831	6.8	23,229	2,583	11.1	-14%	+41%	+63%
Female	11,635	1,521	13.1	12,259	2,232	18.2	+5%	+47%	+39%
<i>Pedestrian Fatalities</i>									
Total	6,745	1,160	17.2	5,307	914	17.2	-21%	-21%	0%
Male	4,777	683	14.3	3,615	546	15.1	-24%	-20%	+6%
Female	1,967	477	24.3	1,659	368	22.2	-16%	-23%	-9%

Sources: Licensed drivers — Federal Highway Administration. Population — Bureau of the Census.

## PEDALCYCLISTS

The first automobile crash in the United States occurred in New York City in 1896, when a motor vehicle collided with a pedalcycle rider (Famous First Facts, by Joseph Kane).

More than 44,000 pedalcyclists have died in traffic crashes in the United States since 1932—the first year in which estimates of pedalcyclist fatalities were recorded. The 350 pedalcyclists killed in 1932 accounted for 1.3 percent of the 27,979 persons who died in traffic crashes that year.

In 1997, 813 pedalcyclists were killed and an additional 58,000 were injured in traffic crashes. Pedalcyclist deaths accounted for 2 percent of all traffic fatalities, and pedalcyclists made up 2 percent of all the people injured in traffic crashes during the year.

The number of pedalcyclist fatalities in 1997 was 14 percent lower than the 948 fatalities reported in 1987. The highest number of pedalcyclist fatalities ever recorded in the Fatality Analysis Reporting System (FARS) was 1,003 in 1975.

In 1987, the average age of pedalcyclists killed in traffic crashes was 23.0 years; in 1997 the average age of those killed was 30.8 years, and the average age of those injured was 24.1 years.

Pedalcyclists accounted for 13 percent of all nonmotorist traffic fatalities in 1997. Pedestrians accounted for 85 percent, and the remaining 2 percent were skateboard riders, roller skaters, etc.

Pedalcyclist fatalities occurred more frequently in urban areas (64 percent), at nonintersection locations (67 percent), between the hours of 5 p.m. and 9 p.m. (34 percent), and during the months of June, July, and August (35 percent).

Most of the pedalcyclists killed or injured in 1997 were males (88 percent and 82 percent, respectively), and most were between the ages of 5 and 44 years (76 percent and 88 percent, respectively).

The pedalcyclist fatality rate per capita was more than 7 times as high for males as for females, and the injury rate per capita was more than 4 times as high for males as for females.

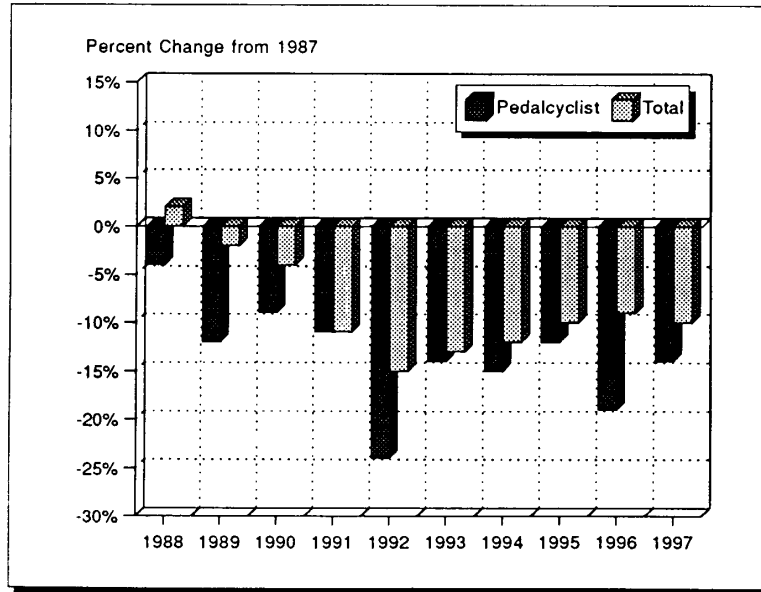
Pedalcyclists under age 16 accounted for 31 percent of all pedalcyclists killed and 43 percent of those injured in traffic crashes in 1997. In comparison, pedalcyclists under age 16 accounted for 47 percent of all those killed in 1987.

Pedalcyclists 25 years of age and older have made up an increasing proportion of all pedalcyclist deaths since 1987. The proportion of pedalcyclist fatalities age 25 to 64 was 1.7 times as high in 1997 as in 1987 (46 percent and 27 percent, respectively).

Almost one-third (30 percent) of the pedalcyclists killed in traffic crashes in 1997 were between 5 and 15 years old. The pedalcyclist fatality rate for this age group was 5.7 per million population—nearly double the rate for all pedalcyclists (3.0 per million population). The injury rate for this age group was 582 per million population, compared with 216 per million population for pedalcyclists of all ages.

Alcohol involvement—either for the driver or the pedalcyclist—was reported in one-third of the traffic crashes that resulted in pedalcyclist fatalities in 1997. In 25.0 percent of the crashes, either the driver or the cyclist was intoxicated, with blood alcohol concentrations (BAC) of 0.10 grams per deciliter (g/dl) or greater. Lower alcohol levels (BAC 0.01 to 0.09 g/dl) were reported in an additional 8.1 percent. Nearly one-fourth (22.8 percent) of the pedalcyclists killed had a BAC of 0.01 g/dl or greater, and nearly one-fifth (17.3 percent) were intoxicated.

**Figure 1. Trends in Pedalcyclist and Total Traffic Fatalities, 1987-1997**



**Table 1. Nonoccupant Traffic Fatalities, 1987-1997**

Year	Pedestrian	Pedalcyclist	Other	Total
1987	6,745	948	132	7,825
1988	6,870	911	136	7,917
1989	6,556	832	107	7,495
1990	6,482	859	124	7,465
1991	5,801	843	124	6,768
1992	5,549	723	98	6,370
1993	5,649	816	111	6,576
1994	5,489	802	107	6,398
1995	5,584	833	109	6,526
1996	5,449	765	154	6,368
1997	5,307	813	154	6,274

Table 2. Pedalcyclist Fatalities and Injuries and Fatality and Injury Rates by Age and Sex, 1997

Age (years)	Male			Female			Total		
	Fatalities	Population (thousands)	Fatality Rate*	Fatalities	Population (thousands)	Fatality Rate*	Fatalities	Population (thousands)	Fatality Rate*
0-4	6	9,801	0.61	1	9,349	0.11	7	19,150	0.37
5-9	72	10,104	7.13	16	9,634	1.66	88	19,738	4.46
10-15	129	11,745	10.98	26	11,164	2.33	155	22,910	6.77
16-20	79	9,763	8.09	8	9,173	0.87	87	18,936	4.59
21-24	30	7,054	4.25	4	6,720	0.60	34	13,774	2.47
25-34	97	19,810	4.90	10	19,799	0.51	107	39,610	2.70
35-44	118	21,883	5.39	21	22,115	0.95	139	43,998	3.16
45-54	80	16,457	4.86	5	17,176	0.29	85	33,633	2.53
55-64	37	10,391	3.56	5	11,422	0.44	42	21,813	1.93
65-69	11	4,461	2.47	0	5,301	0.00	11	9,762	1.13
70-79	35	6,723	5.21	3	9,077	0.33	38	15,799	2.41
80+	13	2,825	4.60	1	5,688	0.18	14	8,514	1.64
Unknown	4	--	--	--	--	--	6	--	--
Total	711	131,018	5.43	100	136,618	0.73	813	267,636	3.04

Age (years)	Male			Female			Total		
	Injuries	Population (thousands)	Injury Rate*	Injuries	Population (thousands)	Injury Rate*	Injuries	Population (thousands)	Injury Rate*
0-4	**	9,801	22	**	9,349	9	**	19,150	16
5-9	5,000	10,104	457	2,000	9,634	192	6,000	19,738	327
10-15	14,000	11,745	1,222	4,000	11,164	360	18,000	22,910	802
16-20	6,000	9,763	565	1,000	9,173	123	7,000	18,936	351
21-24	3,000	7,054	366	1,000	6,720	114	3,000	13,774	243
25-34	7,000	19,810	359	2,000	19,799	76	9,000	39,610	217
35-44	7,000	21,883	313	1,000	22,115	29	7,000	43,998	170
45-54	3,000	16,457	184	**	17,176	15	3,000	33,633	97
55-64	2,000	10,391	145	**	11,422	17	2,000	21,813	78
65-69	**	4,461	98	**	5,301	7	**	9,762	49
70-79	1,000	6,723	113	**	9,077	19	1,000	15,799	59
80+	**	2,825	74	**	5,688	7	**	8,514	29
Total	47,000	131,018	360	11,000	136,618	78	58,000	267,636	216

\* Rate per million population.

\*\* Less than 500 injuries.

Source: Population — Bureau of the Census projections.



Table 3. Pedalcyclist Traffic Fatalities and Fatality Rates by State, 1997

State	Total Traffic Fatalities	Resident Population (thousands)	Pedalcyclist Fatalities	Percent of Total	Pedalcyclist Fatalities per Million Population
Alabama	1,189	4,319	10	0.8	2.32
Alaska	77	609	1	1.3	1.64
Arizona	951	4,555	31	3.3	6.81
Arkansas	660	2,523	5	0.8	1.98
California	3,688	32,268	110	3.0	3.41
Colorado	613	3,893	8	1.3	2.05
Connecticut	338	3,270	5	1.5	1.53
Delaware	143	732	3	2.1	4.10
District of Columbia	60	529	0	0.0	0.00
Florida	2,782	14,654	123	4.4	8.39
Georgia	1,577	7,486	19	1.2	2.54
Hawaii	131	1,187	1	0.8	0.84
Idaho	259	1,210	1	0.4	0.83
Illinois	1,395	11,896	35	2.5	2.94
Indiana	935	5,864	13	1.4	2.22
Iowa	468	2,852	6	1.3	2.10
Kansas	481	2,595	9	1.9	3.47
Kentucky	857	3,908	10	1.2	2.56
Louisiana	913	4,352	30	3.3	6.89
Maine	192	1,242	1	0.5	0.81
Maryland	608	5,094	13	2.1	2.55
Massachusetts	442	6,118	10	2.3	1.63
Michigan	1,446	9,774	31	2.1	3.17
Minnesota	600	4,686	7	1.2	1.49
Mississippi	861	2,731	6	0.7	2.20
Missouri	1,192	5,402	6	0.5	1.11
Montana	265	879	1	0.4	1.14
Nebraska	302	1,657	7	2.3	4.22
Nevada	347	1,677	8	2.3	4.77
New Hampshire	125	1,173	3	2.4	2.56
New Jersey	774	8,053	21	2.7	2.61
New Mexico	484	1,730	5	1.0	2.89
New York	1,643	18,137	49	3.0	2.70
North Carolina	1,483	7,425	31	2.1	4.18
North Dakota	105	641	1	1.0	1.56
Ohio	1,441	11,186	21	1.5	1.88
Oklahoma	838	3,317	5	0.6	1.51
Oregon	523	3,243	18	3.4	5.55
Pennsylvania	1,557	12,020	17	1.1	1.41
Rhode Island	75	987	1	1.3	1.01
South Carolina	903	3,760	16	1.8	4.26
South Dakota	148	738	1	0.7	1.36
Tennessee	1,223	5,368	9	0.7	1.68
Texas	3,510	19,439	55	1.6	2.83
Utah	366	2,059	3	0.8	1.46
Vermont	96	589	0	0.0	0.00
Virginia	984	6,734	20	2.0	2.97
Washington	676	5,610	16	2.4	2.85
West Virginia	379	1,816	5	1.3	2.75
Wisconsin	725	5,170	5	0.7	0.97
Wyoming	137	480	1	0.7	2.08
U.S. Total	41,967	267,636	813	1.9	3.04
Puerto Rico	591	3,818	23	3.9	6.02

Note: Totals may not equal sum of components due to independent rounding.

Sources: Fatalities — Fatality Analysis Reporting System, NHTSA. Population — Bureau of the Census.

#### PEDESTRIANS

In 1997, 5,307 pedestrians were killed in traffic crashes in the United States—a decrease of 21 percent from the 6,745 pedestrians killed in 1987.

On average, a pedestrian is killed in a traffic crash every 99 minutes.

There were 77,000 pedestrians injured in traffic crashes in 1997.

On average, a pedestrian is injured in a traffic crash every 7 minutes.

Most pedestrian fatalities in 1997 occurred in urban areas (70 percent), at non-intersection locations (79 percent), in normal weather conditions (89 percent), and at night (62 percent).

More than two-thirds (68 percent) of the 1997 pedestrian fatalities were males. The male pedestrian fatality rate per 100,000 population was 2.76—more than double the rate for females (1.21 per 100,000 population). The male pedestrian injury rate per 100,000 population was 35, compared with 23 for females. (see Table 4.)

In 1997, more than one-fourth (29 percent) of all children between the ages of 5 and 9 years who were killed in traffic crashes were pedestrians. One-fifth (20 percent) of all traffic fatalities under age 16 were pedestrians, and 7 percent of all traffic injuries under age 16 were pedestrians.

Older pedestrians (ages 70+) accounted for 17 percent of all pedestrian fatalities and 3 percent of all pedestrian injuries. The death rate for this group, both males and females, was 3.76 per 100,000 population—higher than for any other age group.

Pedestrian fatalities accounted for 85 percent of all nonoccupant fatalities in 1997. The 813 pedalcyclist fatalities accounted for 13 percent, and the remaining 2 percent were skateboard riders, roller skaters, etc.

Forty percent of the 644 pedestrian fatalities under 16 years of age were killed in crashes that occurred between 4 p.m. and 8 p.m.

Nearly one-half of all pedestrian fatalities occurred on Friday, Saturday, or Sunday: 17 percent, 18 percent, and 13 percent, respectively.

Alcohol involvement—either for the driver or for the pedestrian—was reported in 45 percent of the traffic crashes that resulted in pedestrian fatalities. Of the pedestrians involved, 29.5 percent were intoxicated, with blood alcohol concentrations (BAC) of 0.10 grams per deciliter (g/dl) or greater. The intoxication rate for the drivers involved was only 12.5 percent, less than one-half that for the pedestrians. In 5.3 percent of the crashes, both the driver and the pedestrian were intoxicated.

In 1997, the highest rate of intoxication for pedestrians killed in traffic crashes was reported for pedestrians 25 to 34 years old. Intoxication rates by age group were as follows: 16 to 20 years, 28.5 percent; 21 to 24 years, 43.1 percent; 25 to 34 years, 49.8 percent; 35 to 44 years, 47.4 percent; 45 to 54 years, 35.9 percent; 55 to 64 years, 26.3 percent; 65 years and older, 9.3 percent.

For all pedestrian fatalities 16 years of age or older, the reported intoxication rate in 1997 was 32.7 percent, 9 percent lower than the 36.1 percent intoxication rate reported for the same group in 1987. By age groups of pedestrian fatalities, changes in intoxication rates over this period were as follows: a 19 percent decrease for those 55 to 64 years old, a 17 percent decrease for those 45 to 54 years old, a 17 percent decrease for those 16 to 20 years old, a 14 percent decrease for those 65 and over, a 12 percent decrease for those 21 to 24 years old, a 7 percent decrease for those 25 to 34 years old, and a 3 percent decrease for those 35 to 44 years old.

Figure 1. Trends in Pedestrian and Total Traffic Fatalities, 1987-1997

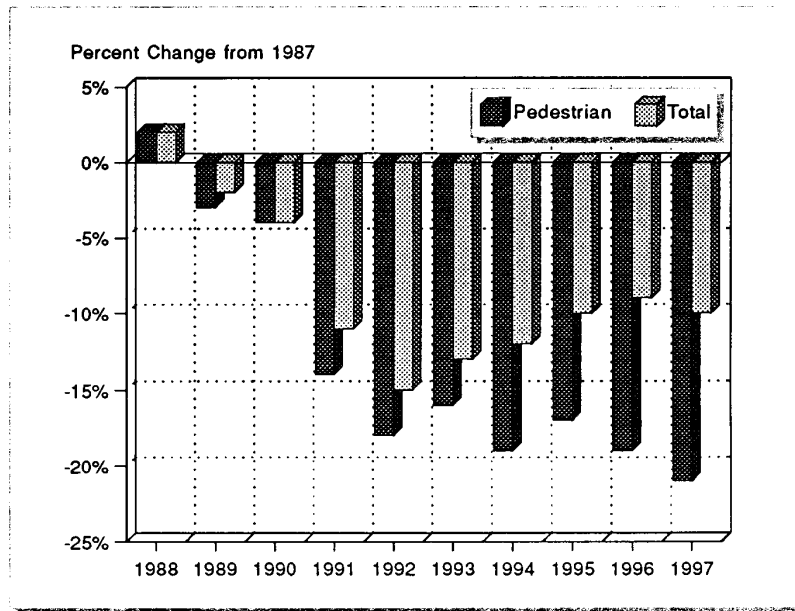


Table 1. Pedestrian Fatalities and Injuries by Age Group, 1993

Age Group (years)	Total Traffic Fatalities	Pedestrian Fatalities	Percentage of Total Fatalities
0-4	788	165	21
5-9	815	240	29
10-15	1,554	239	15
16-20	5,757	300	5
21-24	3,781	253	7
25-29	3,884	336	9
30-34	3,481	421	12
35-39	3,432	468	14
40-44	3,000	454	15
45-49	2,570	404	16
50-54	2,097	297	14
55-59	1,649	238	14
60-64	1,488	250	17
65-69	1,524	242	16
70+	5,802	914	16
Unknown	345	86	--
<b>Total</b>	<b>41,967</b>	<b>5,307</b>	<b>13</b>
Age Group (years)	Total Traffic Injuries	Pedestrian Injuries	Percentage of Total Injuries
0-4	82,000	4,000	5
5-9	111,000	11,000	10
10-15	190,000	11,000	6
16-20	590,000	7,000	1
21-24	344,000	5,000	1
25-29	368,000	4,000	1
30-34	330,000	5,000	1
35-39	317,000	6,000	2
40-44	267,000	6,000	2
45-49	203,000	4,000	2
50-54	155,000	4,000	2
55-59	110,000	2,000	2
60-64	78,000	2,000	2
65-69	80,000	2,000	2
70+	175,000	5,000	3
<b>Total</b>	<b>3,399,000</b>	<b>77,000</b>	<b>2</b>

Table 2. Nonoccupant Traffic Fatalities, 1987-1997

Year	Pedestrian	Pedalcyclist	Other	Total
1987	6,745	948	132	7,825
1988	6,870	911	136	7,917
1989	6,556	832	107	7,495
1990	6,482	859	124	7,465
1991	5,801	843	124	6,768
1992	5,549	723	98	6,370
1993	5,649	816	111	6,576
1994	5,489	802	107	6,398
1995	5,584	833	109	6,526
1996	5,449	765	154	6,368
1997	5,307	813	154	6,274

Figure 2. Pedestrian Fatalities by Time of Day and Day of Week, 1997

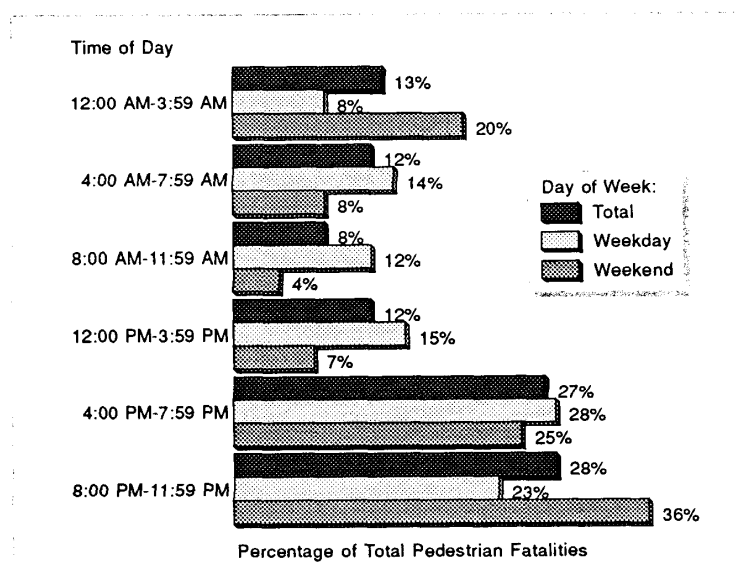


Table 3. Alcohol Involvement in Fatal Pedestrian Crashes, 1997

	No Driver Alcohol Involvement	Driver Alcohol Involvement, BAC 0.01–0.09 g/dl	Driver Alcohol Involvement, BAC 0.10 g/dl or Greater	Total
No Pedestrian Alcohol Involvement	55.5%	3.5%	6.4%	3,405 65.4%
Pedestrian Alcohol Involvement, BAC 0.01–0.09 g/dl	3.8%	0.5%	0.8%	267 5.1%
Pedestrian Alcohol Involvement, BAC 0.10 g/dl or Greater	21.4%	2.8%	5.3%	1,537 29.5%
Total	4,207 80.7%	352 6.8%	649 12.5%	5,208 100.0%

Table 4. Pedestrian Fatalities and Injuries and Fatality and Injury Rates by Age and Sex, 1997

Age (years)	Male			Female			Total		
	Fatalities	Population (thousands)	Fatality Rate*	Fatalities	Population (thousands)	Fatality Rate*	Fatalities	Population (thousands)	Fatality Rate*
0-4	99	9,801	1.01	66	9,349	0.71	165	19,150	0.86
5-9	144	10,104	1.43	96	9,634	1.00	240	19,738	1.22
10-15	138	11,745	1.17	101	11,164	0.90	239	22,910	1.04
16-20	205	9,763	2.10	95	9,173	1.04	300	18,936	1.58
21-24	196	7,054	2.78	57	6,720	0.85	253	13,774	1.84
25-34	571	19,810	2.88	186	19,799	0.94	757	39,610	1.91
35-44	667	21,883	3.05	255	22,115	1.15	922	43,998	2.10
45-54	509	16,457	3.09	192	17,176	1.12	701	33,633	2.08
55-64	344	10,391	3.31	144	11,422	1.26	488	21,813	2.24
65-69	159	4,461	3.56	83	5,301	1.57	242	9,762	2.48
70-79	307	6,723	4.57	198	9,077	2.18	505	15,799	3.20
80+	239	2,825	8.46	170	5,688	2.99	409	8,514	4.80
Unknown	37	--	--	16	--	--	**86	--	--
Total	3,615	131,018	2.76	1,659	136,618	1.21	5,307	267,636	1.98

Age (years)	Male			Female			Total		
	Injuries	Population (thousands)	Injury Rate*	Injuries	Population (thousands)	Injury Rate*	Injuries	Population (thousands)	Injury Rate*
0-4	2,000	9,801	23	2,000	9,349	18	4,000	19,150	21
5-9	7,000	10,104	67	4,000	9,634	45	11,000	19,738	56
10-15	6,000	11,745	53	4,000	11,164	39	11,000	22,910	46
16-20	3,000	9,763	35	3,000	9,173	36	7,000	18,936	36
21-24	2,000	7,054	33	2,000	6,720	36	5,000	13,774	35
25-34	6,000	19,810	28	3,000	19,799	17	9,000	39,610	23
35-44	9,000	21,883	41	3,000	22,115	14	12,000	43,998	28
45-54	4,000	16,457	24	4,000	17,176	21	8,000	33,633	22
55-64	2,000	10,391	24	2,000	11,422	16	4,000	21,813	19
65-69	1,000	4,461	30	1,000	5,301	13	2,000	9,762	20
70-79	1,000	6,723	20	2,000	9,077	25	4,000	15,799	22
80+	1,000	2,825	25	1,000	5,688	12	1,000	8,514	16
Total	45,000	131,018	35	31,000	136,618	23	77,000	267,636	29

\* Rate per 100,000 population.

\*\* Includes 33 fatalities of unknown sex.

Note: Totals may not equal sum of components due to independent rounding.

Source: Population — Bureau of the Census projections.

State	Total Traffic Fatalities	Resident Population (thousands)	Pedestrian Fatalities	Percent of Total	Pedestrian Fatalities per 100,000 Population
Alabama	1,189	4,319	85	7.1	2.0
Alaska	77	609	10	13.0	1.6
Arizona	951	4,555	149	15.7	3.3
Arkansas	660	2,523	49	7.4	1.7
California	3,688	32,268	757	20.5	2.3
Colorado	613	3,893	56	9.1	1.4
Connecticut	338	3,270	53	15.7	1.6
Delaware	143	732	14	9.8	1.9
District of Columbia	60	529	24	40.0	4.5
Florida	2,782	14,654	528	19.0	3.6
Georgia	1,577	7,486	182	11.5	2.4
Hawaii	131	1,187	21	16.0	1.8
Idaho	259	1,210	19	7.3	1.6
Illinois	1,395	11,896	196	14.1	1.6
Indiana	935	5,864	72	7.7	1.2
Iowa	468	2,852	27	5.8	0.9
Kansas	481	2,595	27	5.6	1.0
Kentucky	857	3,908	64	7.5	1.6
Louisiana	913	4,352	134	14.7	3.1
Maine	192	1,242	19	9.9	1.5
Maryland	608	5,094	107	17.6	2.1
Massachusetts	442	6,118	79	17.9	1.3
Michigan	1,446	9,774	165	11.4	1.7
Minnesota	600	4,686	56	9.3	1.2
Mississippi	861	2,731	54	6.3	2.0
Missouri	1,192	5,402	100	8.4	1.9
Montana	265	879	9	3.4	1.0
Nebraska	302	1,657	17	5.6	1.0
Nevada	347	1,677	59	17.0	3.5
New Hampshire	125	1,173	11	8.8	0.9
New Jersey	774	8,053	143	18.5	1.8
New Mexico	484	1,730	66	13.6	3.8
New York	1,643	18,137	383	23.3	2.1
North Carolina	1,483	7,425	176	11.9	2.4
North Dakota	105	641	5	4.8	0.8
Ohio	1,441	11,186	126	8.7	1.1
Oklahoma	838	3,317	69	8.2	2.1
Oregon	523	3,243	57	10.9	1.8
Pennsylvania	1,557	12,020	170	10.9	1.4
Rhode Island	75	987	7	9.3	0.7
South Carolina	903	3,760	103	11.4	2.7
South Dakota	148	738	6	4.1	0.8
Tennessee	1,223	5,368	107	8.7	2.0
Texas	3,510	19,439	441	12.6	2.3
Utah	366	2,059	39	10.7	1.9
Vermont	96	589	12	12.5	2.0
Virginia	984	6,734	89	9.0	1.3
Washington	676	5,610	72	10.7	1.3
West Virginia	379	1,816	21	5.5	1.2
Wisconsin	725	5,170	63	8.7	1.2
Wyoming	137	480	9	6.6	1.9
<b>U.S. Total</b>	<b>41,967</b>	<b>267,636</b>	<b>5,307</b>	<b>12.6</b>	<b>2.0</b>
Puerto Rico	591	3,818	208	35.2	5.4

Note: Totals may not equal sum of components due to independent rounding.

Sources: Fatalities — Fatality Analysis Reporting System, NHTSA. Population — Bureau of the Census.

#### SCHOOL BUSES

A school bus-related crash is a crash which involves, either directly or indirectly, a school bus-type vehicle, or a vehicle functioning as a school bus, transporting children to or from school or school-related activities.

Since 1987 there have been about 420,000 fatal traffic crashes. Just over 0.3 percent (1,298) were classified as school bus-related.

Since 1987, 1,458 people have died in school bus-related crashes—an average of 132 fatalities per year. Most of the people who lost their lives in those crashes (63 percent) were occupants of other vehicles involved. Nonoccupants (pedestrians,

bicyclists, etc.) accounted for 27 percent of the deaths, and school bus occupants accounted for 10 percent (drivers 2 percent, passengers 8 percent).

Since 1987, 257 school-age pedestrians (less than 19 years old) have died in school bus-related crashes. Nearly two-thirds (64 percent) were killed by school buses, 5 percent by vehicles functioning as school buses, and 32 percent by other vehicles involved in the crashes. Half of all school-age pedestrians killed in school bus-related crashes were between the ages of 5 and 7.

On average, 16 school-age pedestrians are killed by school buses (or vehicles used as school buses) each year, and 7 are killed by other vehicles involved in school bus-related crashes.

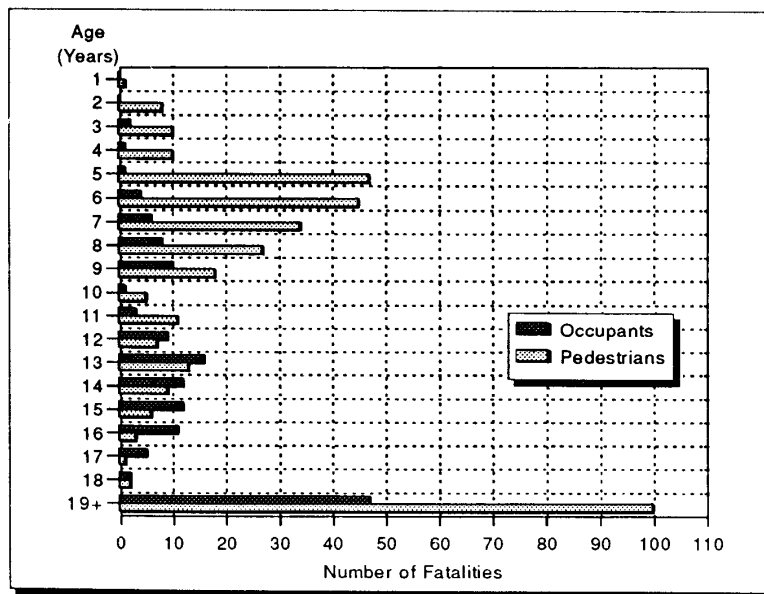
More school-age pedestrians are killed in the afternoon than in the morning, with 43 percent of the fatalities occurring in crashes between 3 and 4 p.m.

Between 1987 and 1997, 100 crashes occurred in which at least one occupant of a school bus or a vehicle functioning as a school bus died. Half of those crashes (52 percent) involved another vehicle. In the 48 single-vehicle crashes, 60 occupants—13 drivers and 47 passengers—were killed. In the 52 multiple-vehicle crashes, 18 drivers and 72 passengers died. In the 48 single-vehicle crashes, the first harmful events were as follows: striking a fixed object (28 crashes), a person falling from the vehicle (10 crashes), the vehicle overturning (6 crashes), the vehicle colliding with a train (2 crashes), and collision with object not fixed (1 crash).

In 42 percent of all crashes involving fatalities to occupants of a school bus or vehicle used as a school bus, the principal point of impact was the front of the vehicle.

Since 1987, 7 drivers and 47 passengers have died in school buses providing transportation for purposes other than school or school-related activities (churches, civic organizations, etc.). In one such multi-vehicle crash, 27 occupants, including the driver, died.

Figure 1. Occupant and Pedestrian Fatalities in School Bus-Related Crashes, by Age, 1987-1997



Note: Occupant fatalities shown are for occupants of school buses or vehicles used as school buses.



Table 1. Fatalities in School Bus-Related Crashes by Time of Day, 1987-1997

Time of Day	Occupant Fatalities*	Pedestrians (School Age)	Total Fatalities
12:00-6:59 AM	5	6	11
7:00-7:59 AM	48	29	77
8:00-8:59 AM	17	19	36
9:00-9:59 AM	5	6	11
10:00-10:59 AM	4	0	4
11:00-11:59 AM	2	6	8
12:00-12:59 PM	5	8	13
1:00-1:59 PM	6	4	10
2:00-2:59 PM	17	36	53
3:00-3:59 PM	25	110	135
4:00-4:59 PM	9	29	38
5:00-11:59 PM	7	4	11
<b>Total</b>	<b>150</b>	<b>257</b>	<b>407</b>

\* Does not include occupants of other vehicles in school bus-related crashes.

Table 2. Occupant Fatalities in School Bus-Related Crashes by Principal Impact Point on School Bus Vehicle, 1987-1997

Principal Impact Point on Bus	Type of Crash					
	Single-Vehicle		Multiple-Vehicle		Total	
	Crashes	Fatalities	Crashes	Fatalities	Crashes	Fatalities
Front	16	19	26	59	42	78
Right Side	6	6	10	15	16	21
Left Side	1	1	10	10	11	11
Rear	3	9	5	5	8	14
Top	2	3	0	0	2	3
Undercarriage	1	1	1	1	2	2
Noncollision	18	20	0	0	18	20
Unknown	1	1	0	0	1	1
<b>Total</b>	<b>48</b>	<b>60</b>	<b>52</b>	<b>90</b>	<b>100</b>	<b>150</b>

Table 3. School-Age Pedestrians Killed in School Bus-Related Crashes by Vehicle Maneuver, 1987-1997

Vehicle Maneuver	Striking Vehicle			
	School Bus	Vehicle Used as School Bus	Other Vehicle	Total
Going Straight	61	9	56	126
Slowing or Stopping in Traffic Lane	6	0	3	9
Starting in Traffic Lane	66	1	1	68
Passing or Overtaking Another Vehicle	0	0	11	11
Leaving a Parked Position	7	1	0	8
Maneuvering to Avoid an Animal, Pedestrian, Object, Other Vehicle, etc.	0	0	5	5
Turning Right	11	0	0	11
Turning Left	6	0	0	6
Backing Up (Other Than for Parking)	4	0	0	4
Negotiating a Curve	1	0	3	4
Entering Parked Position	2	0	0	2
Changing Lanes	0	0	1	1
Other/Unknown	0	1	1	2
<b>Total School-Age Pedestrians Killed</b>	<b>164</b>	<b>12</b>	<b>81</b>	<b>257</b>

Table 4. School Bus-Related Crashes Involving Occupant Fatalities, 1987-1997

Year	School Bus Body-Type		Vehicle Used as School Bus		Total	
	Single-Vehicle	Multiple-Vehicle	Single-Vehicle	Multiple-Vehicle	Single-Vehicle	Multiple-Vehicle
	Crashes Fatalities	Crashes Fatalities	Crashes Fatalities	Crashes Fatalities	Crashes Fatalities	Crashes Fatalities
1987	0 0	6 11	3 3	3 3	3 3	9 14
1988	2 2	4 5	1 1	0 0	3 3	4 5
1989	7 8	* 5 25	3 3	1 1	10 11	6 26
1990	5 7	4 4	0 0	0 0	5 7	4 4
1991	0 0	6 10	4 6	1 1	4 6	7 11
1992	3 3	4 4	2 3	0 0	5 6	4 4
1993	5 5	2 5	2 2	1 1	7 7	3 6
1994	0 0	0 0	0 0	3 4	0 0	3 4
1995	2 8	3 4	1 1	0 0	3 9	3 4
1996	5 5	3 3	2 2	0 0	7 7	3 3
1997	0 0	4 7	1 1	2 2	1 1	6 9
<b>Total</b>	<b>29 38</b>	<b>41 78</b>	<b>19 22</b>	<b>11 12</b>	<b>48 60</b>	<b>52 90</b>

\* Includes one crash with 21 occupant fatalities.

Note: Does not include occupants of other vehicles in school bus-related crashes.

Table 5. Fatalities in School Bus-Related Crashes, 1987-1997

Year	Occupants of School Bus*			Pedestrians			Other Nonoccupants	Occupants of Other Vehicle	Total
	Driver	Passenger	Total	Struck by School Bus*	Struck by Other Vehicle	Total			
1987	8	9	17	32	11	43	5	113	178
1988	2	6	8	19	17	36	6	80	130
1989	4	33	37	25	7	32	1	72	142
1990	4	7	11	32	7	39	1	64	115
1991	2	15	17	21	5	26	5	86	134
1992	1	9	10	21	8	29	2	83	124
1993	1	12	13	32	8	40	2	86	141
1994	2	2	4	28	9	37	2	64	107
1995	0	13	13	24	10	34	4	72	123
1996	2	8	10	16	7	23	2	101	136
1997	5	5	10	16	2	18	5	95	128
Total	31	119	150	266	91	357	35	916	1,458
Average	3	11	14	24	8	32	3	83	132

\* Includes school bus body type and vehicle used as school bus.

### SPEEDING

Speeding—exceeding the posted speed limit or driving too fast for conditions—is one of the most prevalent factors contributing to traffic crashes. The economic cost to society of speeding-related crashes is estimated by NHTSA to be \$28.9 billion per year. In 1997, speeding was a contributing factor in 30 percent of all fatal crashes, and 13,036 lives were lost in speeding-related crashes.

Motor vehicle crashes cost society an estimated \$4,800 per second. The total economic cost of crashes was estimated at \$150.5 billion in 1994. The 1997 costs of speeding-related crashes were estimated to be \$28.9 billion—\$54,964 per minute or \$916 per second.

In 1997, 626,000 people received minor injuries in speeding-related crashes. An additional 75,000 people received moderate injuries, and 41,000 received critical injuries in speeding-related crashes (based on methodology from The Economic Cost of Motor Vehicle Crashes 1994, NHTSA).

Speeding reduces a driver's ability to steer safely around curves or objects in the roadway, extends the distance necessary to stop a vehicle, and increases the distance a vehicle travels while the driver reacts to a dangerous situation.

For drivers involved in fatal crashes, young males are the most likely to be speeding. The relative proportion of speeding-related crashes to all crashes decreases with increasing driver age. In 1997, 37 percent of the male drivers 15 to 20 years old who were involved in fatal crashes were speeding at the time of the crash.

Alcohol and speeding seem to go hand in hand. In 1997, 23 percent of the speeding drivers under 21 years old who were involved in fatal crashes were also intoxicated, with a blood alcohol concentration (BAC) of 0.10 (grams per deciliter [g/dl]) or greater. In contrast, only 9 percent of the nonspeeding drivers under age 21 involved in fatal crashes in 1997 were intoxicated.

For drivers between 21 and 24 years of age who were involved in fatal crashes in 1997, 45 percent of speeding drivers were intoxicated, compared with only 18 percent of nonspeeding drivers.

Alcohol and speeding are clearly a deadly combination. Alcohol involvement is prevalent for drivers involved in speeding-related crashes. In 1997, 43 percent of the intoxicated drivers (BAC = 0.10 or higher) involved in fatal crashes were speeding, compared with only 14 percent of the sober drivers (BAC = 0.00) involved in fatal crashes (Figure 3).

For both speeding and nonspeeding drivers involved in fatal crashes, the percentage of those who had been drinking, with BAC 0.01 or greater, at the time the crash occurred was higher at night than during the day. Between midnight and 3 a.m., 77 percent of speeding drivers involved in fatal crashes had been drinking.

In 1997, 41 percent of all motorcyclists involved in fatal crashes were speeding. The percentage of speeding involvement in fatal crashes was approximately twice as high for motorcyclists as for drivers of passenger cars or light trucks, and the percentage of alcohol involvement was more than 50 percent higher for motorcyclists.

In 1997, only 37 percent of speeding passenger vehicle drivers under 21 years old who were involved in fatal crashes were wearing safety belts at the time of the crash. In contrast, 60 percent of nonspeeding drivers in the same age group were restrained. For drivers 21 years and older, the percentage of speeding drivers involved in fatal crashes who were using restraints at the time of the crash was 35 percent, but 65 percent of nonspeeding drivers in fatal crashes were restrained.

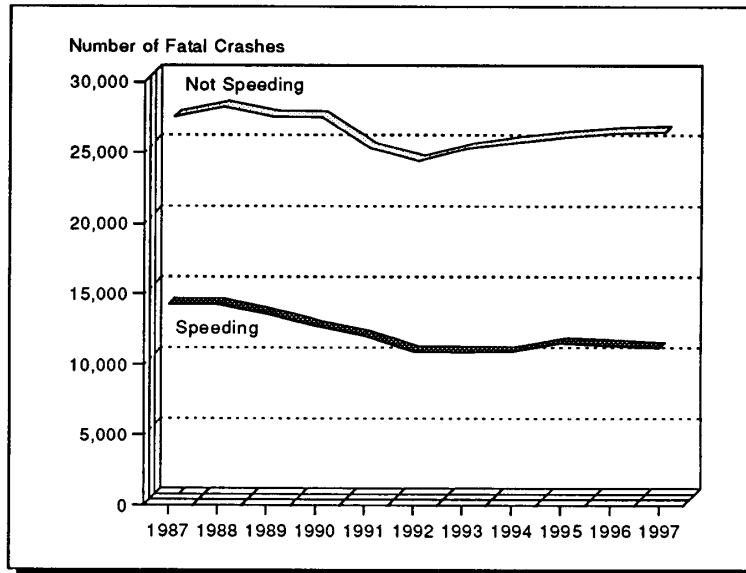
In 1997, 20 percent of speeding drivers involved in fatal crashes had an invalid license at the time of the crash, compared with 9 percent of nonspeeding drivers.

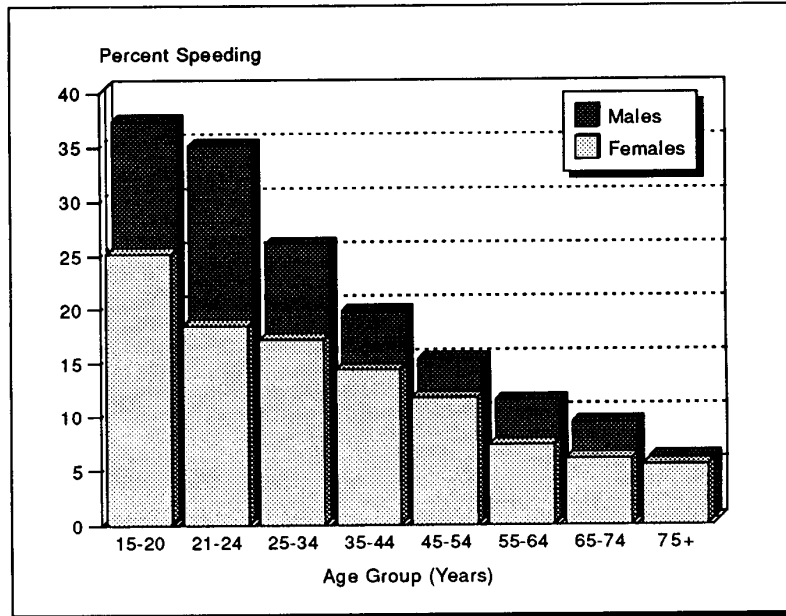
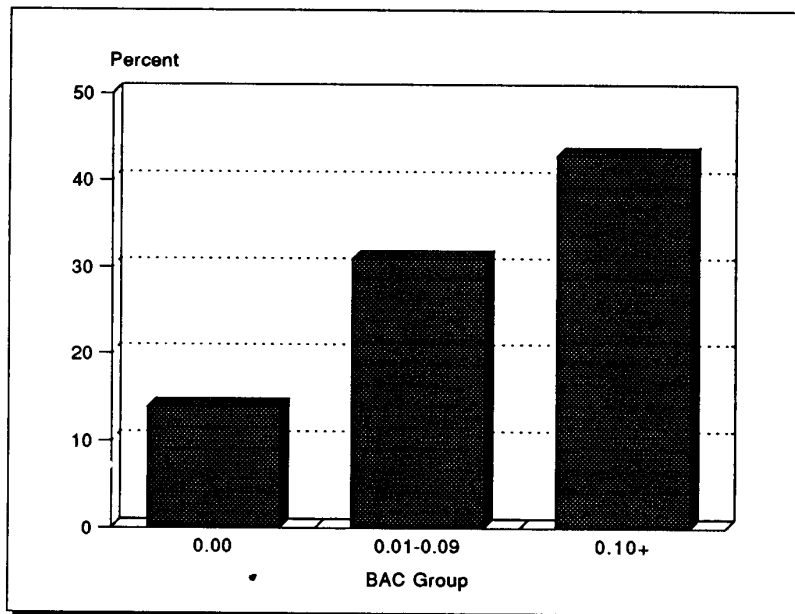
Speeding was a factor in 29 percent of the fatal crashes that occurred on dry roads in 1997 and in 32 percent of those that occurred on wet roads. Speeding was a factor in 50 percent of the fatal crashes that occurred when there was snow or slush on the road and in 57 percent of those that occurred on icy roads.

Speeding was involved in more than one-third of the fatal crashes that occurred in construction/maintenance zones in 1997.

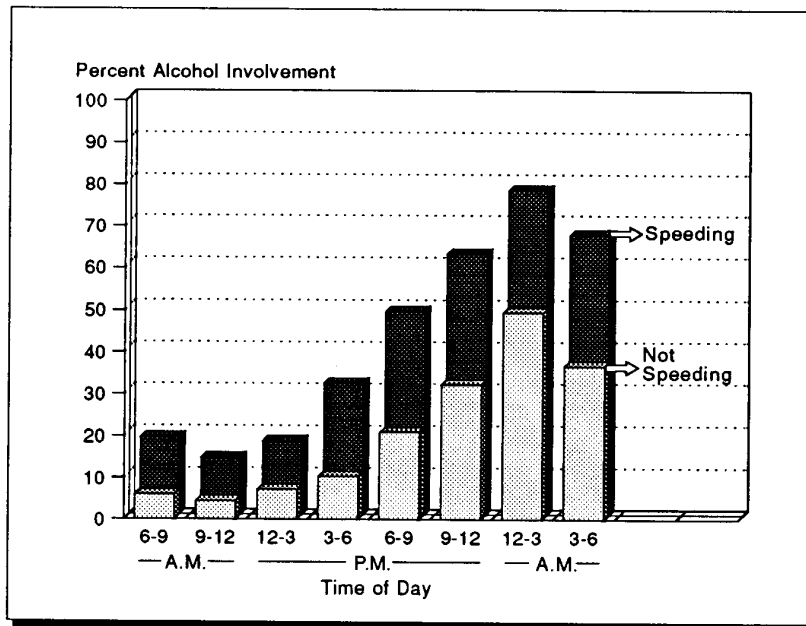
In 1997, 86 percent of speeding-related fatalities occurred on roads that were not Interstate highways.

**Figure 1. Fatal Crashes by Speeding Status, 1987-1997**

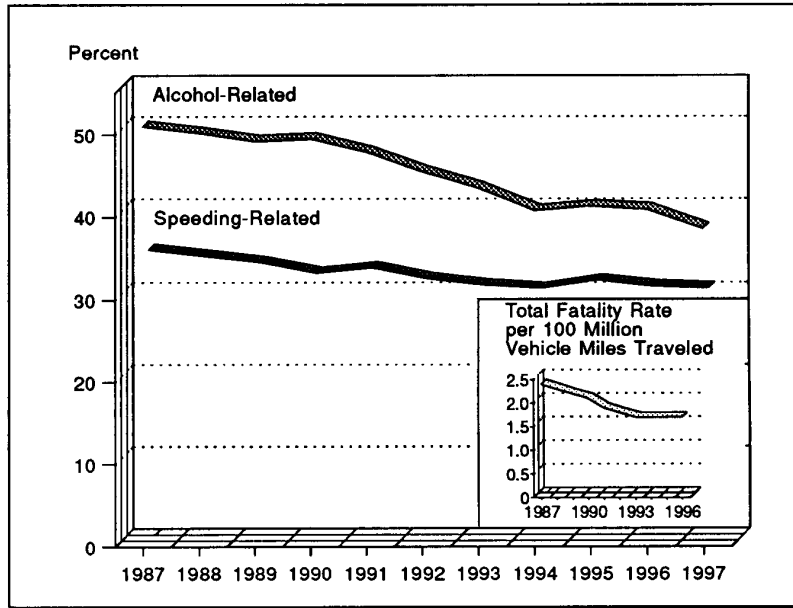


**Figure 2. Speeding Drivers in Fatal Crashes by Age and Sex, 1997****Figure 3. Percentage of All Drivers Involved In Fatal Crashes That Were Speeding, by BAC Level, 1997**

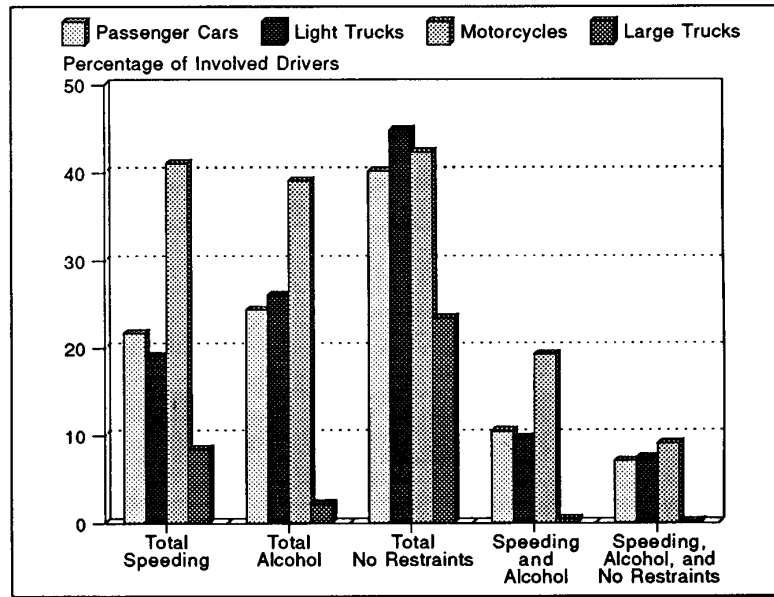
**Figure 4. Drivers in Fatal Crashes by Alcohol Involvement, Speeding Status, and Time of Day, 1997**



**Figure 5. Percentages of Fatalities Related to Speeding and to Alcohol, 1987-1997**



**Figure 6. Speeding, Alcohol Involvement, and Failure To Use Restraints Among Drivers Involved In Fatal Crashes by Vehicle Type, 1997**





**Figure 7. Speeding-Related Fatalities by Road Type, 1997**

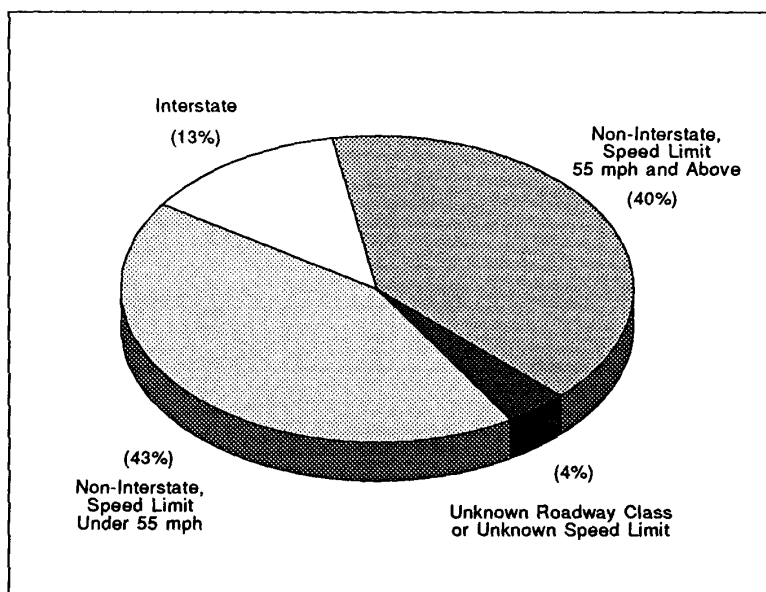


Table 2. Speeding-Related Traffic Fatalities and Costs by Road Type and Speed Limit, 1997

State	Total Traffic Fatalities	Speeding-Related Fatalities by Road Type and Speed Limit										Estimated Costs of Speeding-Related Crashes by Road Type (Million 1994 Dollars)			
		Total	Interstate		Non-Interstate								Total	Interstate	Non-Interstate
			>55 mph	≤55 mph	55 mph	50 mph	45 mph	40 mph	35 mph	≤35 mph					
AL	1,189	415	48	1	117	9	133	24	39	25	476	60	416		
AK	77	27	1	5	5	5	3	4	1	3	62	11	52		
AZ	951	349	40	13	78	24	51	47	26	38	551	81	469		
AR	660	198	15	2	114	1	19	4	16	18	283	33	251		
CA	3,688	1,255	203	32	317	47	126	82	165	124	2,996	467	2,529		
CO	613	258	29	26	58	8	23	25	29	37	429	75	354		
CT	338	141	0	25	4	3	18	16	16	58	436	66	370		
DE	143	46	0	3	5	24	1	4	4	5	86	9	77		
DC	60	28	0	0	0	0	1	0	0	27	104	9	95		
FL	2,782	764	73	24	96	28	112	55	85	91	1,677	245	1,432		
GA	1,577	349	27	12	157	4	54	20	46	24	784	100	684		
HI	131	42	0	8	4	4	8	1	9	8	121	19	103		
ID	259	96	17	0	18	11	4	6	11	12	121	19	102		
IL	1,395	450	40	33	206	1	28	12	56	74	1,201	175	1,025		
IN	935	243	18	9	69	18	28	31	28	31	533	69	464		
IA	468	61	4	1	29	2	4	0	6	15	210	26	183		
KS	481	113	18	0	35	3	4	4	10	13	232	34	198		
KY	857	247	14	7	170	0	10	0	31	11	413	48	364		
LA	913	155	7	7	79	2	27	3	18	7	448	57	391		
ME	192	63	6	0	3	10	23	6	7	4	135	16	119		
MD	608	162	14	7	13	21	9	27	15	21	588	86	502		
MA	442	154	12	4	7	10	16	28	17	60	723	94	628		
MI	1,446	367	25	16	166	8	35	19	33	38	997	133	863		
MN	600	136	3	8	83	4	7	1	2	15	341	40	300		
MS	861	232	35	2	74	28	33	5	17	15	273	40	233		
MO	1,192	446	59	16	179	1	21	23	30	35	701	107	594		
MT	265	131	6	1	42	1	4	0	10	4	131	24	107		
NE	302	70	7	0	8	24	4	2	4	6	161	20	141		
NV	347	116	17	2	11	4	21	1	21	14	230	37	192		
NH	125	36	3	1	3	3	1	3	12	10	85	11	75		
NJ	774	74	0	3	4	11	9	14	10	22	1,004	131	874		
NM	484	163	30	2	27	4	17	5	17	21	231	39	192		
NY	1,643	452	4	13	157	12	36	37	15	111	2,280	273	2,008		
NC	1,483	513	15	12	302	5	104	0	65	5	960	100	860		
ND	105	57	5	0	39	0	0	2	1	6	64	7	57		
OH	1,441	329	29	4	186	2	20	14	35	31	1,220	159	1,061		
OK	838	358	53	3	85	8	64	17	22	10	434	64	370		
OR	523	151	7	5	94	5	12	4	11	13	280	32	248		
PA	1,557	447	25	16	136	11	82	64	63	43	1,042	128	914		
RI	75	31	1	2	3	1	1	3	7	13	89	11	77		
SC	903	443	32	12	157	12	94	17	64	24	521	62	459		
SD	148	65	9	0	26	0	4	4	1	3	85	12	73		
TN	1,223	315	15	9	77	16	57	38	49	51	566	65	501		
TX	3,510	1,304	170	44	208	39	100	62	104	111	2,365	355	2,010		
UT	366	113	35	0	14	7	7	11	5	5	179	37	142		
VT	96	31	6	0	0	14	2	3	6	0	50	9	42		
VA	984	277	32	14	132	0	40	8	33	18	633	94	539		
WA	676	239	31	1	25	40	15	11	51	35	629	86	543		
WV	379	97	10	2	44	5	10	11	8	5	183	24	159		
WI	725	208	7	3	134	2	14	6	12	23	462	49	413		
WY	137	72	20	0	9	0	2	1	1	3	85	20	64		
USA*	41,967	12,889	1,277	410	4,009	502	1,518	785	1,344	1,396	28,889	3,970	24,919		
PR	591	294	0	75	11	9	69	36	63	31	652	166	485		

\*Of the total number of speeding-related fatalities in 1997, 5,208 occurred on roads with posted speed limits between 55 and 65 mph, and 682 occurred on roads with speed limits above 65 mph.

Notes: Totals may not equal sum of components due to independent rounding. The total column for speeding-related fatalities includes fatalities that occurred on roads for which the speed limit was unknown. The total column for costs of speeding-related crashes includes costs for crashes that occurred on unknown road types. Costs are based on preliminary estimates.

#### STATE ALCOHOL ESTIMATES

The following data provide estimates of alcohol involvement in fatal crashes for the United States and individually for the 50 States, the District of Columbia, and Puerto Rico (not included in the national totals). These estimates are based on data from NHTSA's Fatality Analysis Reporting System (FARS). Unfortunately, known BAC test results are not available for all drivers and nonoccupants involved in fatal crashes. Missing data can result for a number of reasons, the most frequent of which is that persons are not always tested for alcohol.

To address the missing data issue, NHTSA has developed and employs a statistical model to estimate the likelihood that a fatal crash-involved driver or nonoccupant was sober (BAC of zero), had some alcohol (BAC of 0.01–0.09), or was intoxicated (BAC of 0.10 or greater) at the time of the crash. The statistical model is based on important characteristics of the crash including crash factors (e.g., time of day, day of week, type of crash, location), vehicle factors (e.g., vehicle type and role in the crash), and person factors (e.g., age, sex, restraint use, previous driving

violations), and whether or not the State had a 21-year-old minimum drinking age law.

The statistical model was developed using all available known data in the aggregate (that is, at the national level) and applied to each individual driver and non-occupant with an unknown BAC test result. The estimates presented include a mix of both known and estimated BACs.

Great caution should be exercised in comparing the levels of alcohol involvement among States. Differences in alcohol involvement can be due to any number of factors not necessarily directly related to a State's alcohol traffic safety program. Factors affecting alcohol involvement in fatal crashes include:

- Population demographics and the economic environment (older drivers and female drivers exhibit lower levels of alcohol involvement, drivers of older vehicles exhibit higher levels of alcohol involvement, pedestrian fatalities as a group exhibit high levels of alcohol involvement);
- Degree of urbanization (alcohol involvement in single- and multi-vehicle crashes tends to be greater in urban fatal crashes, while alcohol involvement in nonoccupant fatal crashes is higher in rural areas);
- Types of vehicles (motorcycle drivers exhibit high levels of alcohol involvement followed by drivers of light trucks/vans; drivers of medium and heavy trucks exhibit the lowest levels of alcohol involvement).

One of the major differences among States is in the degree of testing for driver and nonoccupant BACs. These differences in testing affect the accuracy and reliability of the estimates presented, and for 1997 range from a low of 15.5 percent known BACs to a high of 79.4 percent known BACs. States with higher rates of known BACs yield estimates of fatal crash alcohol involvement with greater accuracy and precision.

#### ESTIMATES OF ALCOHOL-INVOLVED FATALITIES

The following tables estimate alcohol involvement for the Nation and on a State-by-State basis for 1997 and 1982 using NHTSA's discriminant function model as applied to the FARS data. This model estimates BACs of drivers and nonoccupants when their BAC is not available. The estimates presented represent the combination of known and estimated BACs.

A driver or nonoccupant involved is considered alcohol-related if he/she is involved in the fatal crash and exhibits a BAC of 0.01 or greater (the last column on the right in the tables). A fatality is considered alcohol-related if any driver or nonoccupant involved in the crash had a positive BAC. Estimates are presented for four categories:

- (1) BAC of 0.00 (no alcohol)
- (2) BAC of 0.01–0.09 (low alcohol)
- (3) BAC of 0.10 or greater (high alcohol)
- (4) BAC of 0.01 or greater (any alcohol, the sum of (2) and (3)).

Nationwide in 1997, alcohol was involved in 38.6 percent of the traffic fatalities (8.3 percent low alcohol and 30.3 percent high alcohol), translating to 16,189 alcohol-related fatalities.

#### AVAILABILITY OF KNOWN BAC TEST RESULTS

The following tables present the percentage of drivers and nonoccupants involved in fatal crashes where a BAC test was given and the results were in the FARS file. Individual tables are presented for all drivers/nonoccupants, fatally injured drivers and surviving drivers.

Nationwide in 1997, a total of 16,521 fatally injured drivers had BAC test results out of a total of 24,644, or 67.0 percent. For surviving drivers, BAC test results were known on 8,195 out of 31,958 drivers, or 25.6 percent. Overall in 1997, FARS contained BAC test results on a total of 24,716 drivers out of 56,602 involved in fatal crashes, or 43.7 percent. Statistics for the base year 1982 are also presented. Any individual State proportion greater than the national percentage is considered good. The higher the proportion of drivers with known BAC test results, the more reliable the State estimate.

#### STATE-LEVEL ESTIMATES ON A REGIONAL BASIS

For the States in the various NHTSA regions, the following graphics summarize the estimated percentages of fatalities that were alcohol related (BAC of 0.01 or greater) in 1982 and 1997 and the estimated percentage of drivers involved in fatal crashes with BAC of 0.10 or greater (high alcohol).

Table 1. Fatalities by Highest Blood Alcohol Concentration (BAC) in the Crash, 1982

State	Total Fatalities	No Alcohol (BAC = 0.00 g/dl)		Low Alcohol (BAC = 0.01-0.09 g/dl)		High Alcohol (BAC ≥ 0.10 g/dl)		Any Alcohol (BAC ≥ 0.01 g/dl)	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
Alabama	839	372	44.3	89	10.6	379	45.2	467	55.7
Alaska	105	48	45.3	3	3.1	54	51.7	57	54.7
Arizona	724	317	43.7	73	10.1	334	46.2	407	56.3
Arkansas	550	214	38.9	66	11.9	270	49.1	336	61.1
California	4,615	1,894	41.1	498	10.8	2,223	48.2	2,721	58.9
Colorado	668	252	37.7	75	11.2	342	51.1	416	62.3
Connecticut	515	163	31.7	66	12.7	286	55.6	352	68.3
Delaware	122	42	34.1	11	8.8	70	57.1	80	65.9
District of Columbia	35	14	40.2	6	16.8	15	42.9	21	59.8
Florida	2,653	1,418	53.4	252	9.5	983	37.1	1,235	46.6
Georgia	1,229	509	41.4	145	11.8	575	46.8	720	58.6
Hawaii	163	63	38.6	18	11.2	82	50.2	100	61.4
Idaho	256	143	56.0	26	10.0	87	34.0	113	44.0
Illinois	1,651	683	41.4	202	12.2	766	46.4	968	58.6
Indiana	961	495	51.5	91	9.4	375	39.1	466	48.5
Iowa	480	255	53.0	47	9.8	179	37.2	225	47.0
Kansas	498	274	55.0	41	8.3	183	36.8	224	45.0
Kentucky	822	379	46.1	99	12.1	344	41.8	443	53.9
Louisiana	1,091	496	45.4	139	12.7	457	41.8	595	54.6
Maine	166	84	50.4	18	11.1	64	38.5	82	49.6
Maryland	640	292	45.6	61	9.5	288	44.9	348	54.4
Massachusetts	659	266	40.4	79	11.9	314	47.6	393	59.6
Michigan	1,392	562	40.4	136	9.8	693	49.8	830	59.6
Minnesota	571	260	45.5	47	8.2	265	46.3	311	54.5
Mississippi	730	319	43.7	79	10.8	332	45.5	411	56.3
Missouri	890	444	49.9	96	10.8	350	39.3	446	50.1
Montana	254	87	34.2	32	12.5	135	53.3	167	65.8
Nebraska	261	136	52.0	24	9.2	101	38.8	125	48.0
Nevada	280	93	33.3	34	12.3	152	54.5	187	66.7
New Hampshire	173	72	41.6	20	11.8	81	46.6	101	58.4
New Jersey	1,061	467	44.0	145	13.7	449	42.3	594	56.0
New Mexico	577	210	36.4	67	11.6	300	52.0	367	63.6
New York	2,162	1,143	52.9	241	11.1	777	36.0	1,019	47.1
North Carolina	1,303	520	39.9	137	10.5	646	49.6	783	60.1
North Dakota	148	53	35.9	15	10.0	80	54.1	95	64.1
Ohio	1,607	699	43.5	159	9.9	749	46.6	908	56.5
Oklahoma	1,054	463	43.9	121	11.4	471	44.7	591	56.1
Oregon	518	193	37.2	55	10.7	270	52.1	325	62.8
Pennsylvania	1,819	756	41.5	219	12.0	845	46.4	1,063	58.5
Rhode Island	105	36	33.9	20	19.3	49	46.9	69	66.1
South Carolina	730	300	41.0	69	9.4	361	49.5	430	59.0
South Dakota	148	59	39.9	11	7.3	78	52.9	89	60.1
Tennessee	1,055	397	37.6	112	10.6	546	51.8	658	62.4
Texas	4,213	1,325	31.5	553	13.1	2,335	55.4	2,888	68.5
Utah	295	182	61.7	18	6.1	95	32.1	113	38.3
Vermont	107	38	35.7	20	19.0	48	45.3	69	64.3
Virginia	881	416	47.2	87	9.9	378	42.9	465	52.8
Washington	748	273	36.5	73	9.7	402	53.7	475	63.5
West Virginia	450	221	49.2	33	7.2	196	43.6	229	50.8
Wisconsin	770	295	38.4	67	8.7	408	52.9	475	61.6
Wyoming	201	90	44.7	17	8.3	95	47.1	111	55.3
U.S. Total	43,945	18,780	42.7	4,809	10.9	20,356	46.3	25,165	57.3
Puerto Rico	480	245	51.1	40	8.3	195	40.5	235	48.9

Table 2. Fatalities by Highest Blood Alcohol Concentration (BAC) in the Crash, 1997

State	Total Fatalities	No Alcohol (BAC = 0.00 g/dl)		Low Alcohol (BAC = 0.01-0.09 g/dl)		High Alcohol (BAC ≥ 0.10 g/dl)		Any Alcohol (BAC ≥ 0.01 g/dl)	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
Alabama	1,189	716	60.2	96	8.0	377	31.7	473	39.8
Alaska	77	36	47.2	12	15.2	29	37.7	41	52.8
Arizona	951	518	54.5	86	9.0	347	36.5	433	45.5
Arkansas	660	467	70.8	51	7.7	142	21.6	193	29.2
California	3,688	2,374	64.4	331	9.0	982	26.6	1,314	35.6
Colorado	613	395	64.4	45	7.3	174	28.3	218	35.6
Connecticut	338	186	55.0	36	10.7	116	34.3	152	45.0
Delaware	143	82	57.3	20	14.1	41	28.6	61	42.7
District of Columbia	60	25	41.5	6	10.1	29	48.4	35	58.5
Florida	2,782	1,848	66.4	181	6.5	753	27.1	934	33.6
Georgia	1,577	999	63.4	138	8.8	440	27.9	578	36.6
Hawaii	131	72	55.3	12	8.9	47	35.8	59	44.7
Idaho	259	157	60.4	16	6.2	86	33.4	102	39.6
Illinois	1,395	808	57.9	123	8.8	464	33.3	587	42.1
Indiana	935	627	67.1	52	5.6	256	27.4	308	32.9
Iowa	468	294	62.8	48	10.2	126	27.0	174	37.2
Kansas	481	339	70.5	34	7.1	108	22.4	142	29.5
Kentucky	857	578	67.4	53	6.1	227	26.5	279	32.6
Louisiana	913	492	53.9	96	10.5	326	35.7	421	46.1
Maine	192	128	66.6	9	4.8	55	28.6	64	33.4
Maryland	608	387	63.7	57	9.3	164	27.0	221	36.3
Massachusetts	442	233	52.6	60	13.7	149	33.7	209	47.4
Michigan	1,446	888	61.4	126	8.7	432	29.9	558	38.6
Minnesota	600	407	67.8	32	5.4	161	26.8	193	32.2
Mississippi	861	517	60.0	58	6.7	286	33.3	344	40.0
Missouri	1,192	683	57.3	124	10.4	385	32.3	509	42.7
Montana	265	145	54.7	20	7.7	100	37.6	120	45.3
Nebraska	302	197	65.4	22	7.4	82	27.3	105	34.6
Nevada	347	187	53.8	43	12.4	117	33.8	160	46.2
New Hampshire	125	65	52.3	13	10.3	47	37.4	60	47.7
New Jersey	774	492	63.6	79	10.3	202	26.1	282	36.4
New Mexico	484	264	54.5	47	9.8	173	35.7	220	45.5
New York	1,643	1,194	72.6	115	7.0	334	20.3	449	27.4
North Carolina	1,483	955	64.4	101	6.8	427	28.8	528	35.6
North Dakota	105	55	52.2	4	3.6	46	44.3	50	47.8
Ohio	1,441	965	67.0	92	6.4	384	26.6	476	33.0
Oklahoma	838	536	64.0	62	7.4	240	28.6	302	36.0
Oregon	523	295	56.5	55	10.6	173	33.0	228	43.5
Pennsylvania	1,557	926	59.5	118	7.6	514	33.0	631	40.5
Rhode Island	75	34	45.4	8	10.3	33	44.3	41	54.6
South Carolina	903	585	64.8	45	5.0	273	30.2	318	35.2
South Dakota	148	87	58.7	15	10.0	46	31.4	61	41.3
Tennessee	1,223	727	59.4	90	7.4	406	33.2	496	40.6
Texas	3,510	1,762	50.2	379	10.8	1,369	39.0	1,748	49.8
Utah	366	291	79.4	25	6.8	50	13.7	75	20.6
Vermont	96	62	64.2	8	8.6	26	27.1	34	35.8
Virginia	984	601	61.1	85	8.6	298	30.3	383	38.9
Washington	676	376	55.6	68	10.1	232	34.3	300	44.4
West Virginia	379	233	61.4	17	4.4	129	34.2	146	38.6
Wisconsin	725	396	54.7	64	8.8	265	36.6	329	45.3
Wyoming	137	94	68.5	9	6.6	34	24.9	43	31.5
U.S. Total	41,967	25,778	61.4	3,485	8.3	12,704	30.3	16,189	38.6
Puerto Rico	591	299	50.5	65	10.9	228	38.6	292	49.5

Table 4. Drivers Involved In Fatal Crashes by Blood Alcohol Concentration (BAC) of the Driver, 1997

State	Total Drivers Involved	No Alcohol (BAC = 0.00 g/dl)		Low Alcohol (BAC = 0.01-0.09 g/dl)		High Alcohol (BAC ≥ 0.10 g/dl)		Any Alcohol (BAC ≥ 0.01 g/dl)	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
Alabama	1,623	1,215	74.9	94	5.8	314	19.4	408	25.1
Alaska	93	58	62.4	11	11.3	24	26.3	35	37.6
Arizona	1,230	904	73.5	72	5.9	254	20.6	326	26.5
Arkansas	853	693	81.2	44	5.2	116	13.6	160	18.8
California	4,851	3,858	79.5	295	6.1	697	14.4	993	20.5
Colorado	812	634	78.0	42	5.2	136	16.8	178	22.0
Connecticut	450	314	69.9	37	8.3	98	21.9	136	30.1
Delaware	187	135	72.4	16	8.7	35	18.9	52	27.6
District of Columbia	83	55	66.0	8	9.9	20	24.1	28	34.0
Florida	3,955	3,256	82.3	156	3.9	543	13.7	699	17.7
Georgia	2,168	1,713	79.0	122	5.6	332	15.3	455	21.0
Hawaii	180	132	73.3	11	6.3	37	20.5	48	26.7
Idaho	304	219	72.0	20	6.6	65	21.4	85	28.0
Illinois	1,913	1,414	73.9	120	6.3	379	19.8	499	26.1
Indiana	1,350	1,088	80.6	45	3.4	217	16.1	262	19.4
Iowa	649	491	75.7	49	7.5	109	16.8	158	24.3
Kansas	649	523	80.6	32	4.9	94	14.5	126	19.4
Kentucky	1,156	915	79.2	52	4.5	188	16.3	241	20.8
Louisiana	1,174	835	71.1	97	8.3	242	20.6	339	28.9
Maine	266	212	79.6	10	3.8	44	16.5	54	20.4
Maryland	904	720	79.7	54	6.0	129	14.3	184	20.3
Massachusetts	588	400	68.0	59	10.0	129	21.9	188	32.0
Michigan	2,058	1,585	77.0	129	6.3	343	16.7	473	23.0
Minnesota	843	676	80.2	35	4.2	132	15.6	167	19.8
Mississippi	1,110	816	73.5	56	5.0	238	21.4	294	26.5
Missouri	1,601	1,156	72.2	119	7.4	326	20.4	445	27.8
Montana	295	186	62.9	18	6.1	91	31.0	109	37.1
Nebraska	401	314	78.2	21	5.2	66	16.5	87	21.8
Nevada	485	347	71.6	48	10.0	89	18.4	138	28.4
New Hampshire	173	117	67.8	13	7.7	42	24.5	56	32.2
New Jersey	1,064	835	78.5	80	7.5	149	14.0	229	21.5
New Mexico	565	407	72.0	39	6.8	120	21.2	158	28.0
New York	2,208	1,839	83.3	103	4.7	267	12.1	369	16.7
North Carolina	2,012	1,609	80.0	89	4.4	314	15.6	403	20.0
North Dakota	131	90	68.9	4	3.3	36	27.8	41	31.1
Ohio	1,989	1,575	79.2	89	4.5	325	16.3	414	20.8
Oklahoma	1,096	856	78.1	50	4.6	190	17.3	240	21.9
Oregon	672	487	72.5	44	6.5	141	21.0	185	27.5
Pennsylvania	2,196	1,622	73.9	130	5.9	444	20.2	574	26.1
Rhode Island	98	59	60.5	9	9.3	30	30.2	39	39.5
South Carolina	1,185	942	79.5	41	3.4	203	17.1	243	20.5
South Dakota	178	126	71.0	11	6.1	41	22.9	52	29.0
Tennessee	1,658	1,244	75.0	83	5.0	331	20.0	414	25.0
Texas	4,690	3,181	67.8	398	8.5	1,111	23.7	1,509	32.2
Utah	460	404	87.9	20	4.3	36	7.8	56	12.1
Vermont	139	108	77.9	8	5.5	23	16.6	31	22.1
Virginia	1,339	1,008	75.3	78	5.8	253	18.9	331	24.7
Washington	876	629	71.8	61	7.0	186	21.2	247	28.2
West Virginia	526	402	76.5	19	3.5	105	20.0	124	23.5
Wisconsin	963	682	70.8	61	6.4	220	22.8	281	29.2
Wyoming	153	119	78.1	9	5.9	25	16.0	34	21.9
U.S. Total	56,602	43,209	76.3	3,313	5.9	10,080	17.8	13,393	23.7
Puerto Rico	738	513	69.5	68	9.3	157	21.2	225	30.5

Table 5. Driver Fatalities by State and Blood Alcohol Concentration (BAC) Test Status, 1982

State	Total Driver Fatalities	With Known Results		With Unknown Results		Not Tested		Unknown If Tested	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
Alabama	510	89	17.5	202	39.6	215	42.2	4	0.8
Alaska	63	27	42.9	2	3.2	28	44.4	6	9.5
Arizona	353	187	53.0	49	13.9	78	22.1	39	11.0
Arkansas	324	37	11.4	1	0.3	228	70.4	58	17.9
California	2,604	2,279	87.5	2	0.1	321	12.3	2	0.1
Colorado	369	314	85.1	6	1.6	49	13.3	0	0.0
Connecticut	311	212	68.2	19	6.1	80	25.7	0	0.0
Delaware	75	69	92.0	0	0.0	6	8.0	0	0.0
District of Columbia	16	14	87.5	0	0.0	1	6.3	1	6.3
Florida	1,304	423	32.4	208	16.0	662	50.8	11	0.8
Georgia	734	467	63.6	34	4.6	233	31.7	0	0.0
Hawaii	87	79	90.8	0	0.0	8	9.2	0	0.0
Idaho	131	29	22.1	18	13.7	68	51.9	16	12.2
Illinois	901	639	70.9	66	7.3	172	19.1	24	2.7
Indiana	599	285	47.6	102	17.0	185	30.9	27	4.5
Iowa	317	193	60.9	56	17.7	117	36.9	11	3.5
Kansas	315	59	18.7	29	9.2	209	66.3	18	5.7
Kentucky	502	365	72.7	23	4.6	113	22.5	1	0.2
Louisiana	591	128	21.7	249	42.1	209	35.4	5	0.8
Maine	99	50	50.5	5	5.1	43	43.4	1	1.0
Maryland	350	291	83.1	1	0.3	58	16.6	0	0.0
Massachusetts	370	44	11.9	239	64.6	19	5.1	68	18.4
Michigan	778	472	60.7	32	4.1	270	34.7	4	0.5
Minnesota	319	250	78.4	11	3.4	38	11.9	20	6.3
Mississippi	437	38	8.7	12	2.7	58	13.3	329	75.3
Missouri	534	144	27.0	12	2.2	153	28.7	225	42.1
Montana	148	79	53.4	0	0.0	34	23.0	35	23.6
Nebraska	161	89	55.3	13	8.1	33	20.5	26	16.1
Nevada	165	149	90.3	0	0.0	16	9.7	0	0.0
New Hampshire	107	51	47.7	9	8.4	47	43.9	0	0.0
New Jersey	524	453	86.5	3	0.6	68	13.0	0	0.0
New Mexico	305	253	83.0	21	6.9	27	8.9	4	1.3
New York	994	618	62.2	8	0.8	111	11.2	257	25.9
North Carolina	726	327	45.0	112	15.4	284	39.1	3	0.4
North Dakota	105	4	3.8	32	30.5	62	59.0	7	6.7
Ohio	899	390	43.4	128	14.2	277	30.8	104	11.6
Oklahoma	652	467	71.6	0	0.0	185	28.4	0	0.0
Oregon	293	269	91.8	2	0.7	22	7.5	0	0.0
Pennsylvania	1,061	734	69.2	80	7.5	247	23.3	0	0.0
Rhode Island	53	50	94.3	0	0.0	2	3.8	1	1.9
South Carolina	413	205	49.6	54	13.1	151	36.6	3	0.7
South Dakota	85	61	71.8	0	0.0	24	28.2	0	0.0
Tennessee	646	466	72.1	2	0.3	177	27.4	1	0.2
Texas	2,378	42	1.8	669	28.1	1,667	70.1	0	0.0
Utah	157	126	80.3	7	4.5	23	14.6	1	0.6
Vermont	59	51	86.4	1	1.7	5	8.5	2	3.4
Virginia	489	358	73.2	99	20.2	31	6.3	1	0.2
Washington	441	358	81.2	14	3.2	1	0.2	68	15.4
West Virginia	260	195	75.0	6	2.3	58	22.3	1	0.4
Wisconsin	459	390	85.0	6	1.3	58	12.6	5	1.1
Wyoming	117	87	74.4	10	8.5	20	17.1	0	0.0
<b>U.S. Total</b>	<b>24,690</b>	<b>13,396</b>	<b>54.3</b>	<b>2,654</b>	<b>10.7</b>	<b>7,251</b>	<b>29.4</b>	<b>1,389</b>	<b>5.6</b>
Puerto Rico	162	94	58.0	0	0.0	67	41.4	1	0.6

Table 8. Surviving Drivers by State and Blood Alcohol Concentration (BAC) Test Status, 1997

State	Total Surviving Drivers	With Known Results		With Unknown Results		Not Tested		Unknown If Tested	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
Alabama	846	105	12.4	140	16.5	601	71.0	0	0.0
Alaska	46	35	76.1	0	0.0	8	17.4	3	6.5
Arizona	772	49	6.3	65	8.4	463	60.0	195	25.3
Arkansas	426	160	37.6	0	0.0	264	62.0	2	0.5
California	3,034	684	22.5	17	0.6	2,328	76.7	5	0.2
Colorado	437	144	33.0	0	0.0	293	67.0	0	0.0
Connecticut	251	72	28.7	11	4.4	138	55.0	30	12.0
Delaware	103	59	57.3	0	0.0	40	38.8	4	3.9
District of Columbia	62	15	24.2	6	9.7	40	64.5	1	1.6
Florida	2,477	396	16.0	68	2.7	1,887	76.2	126	5.1
Georgia	1,195	867	72.6	20	1.7	307	25.7	1	0.1
Hawaii	97	34	35.1	0	0.0	62	63.9	1	1.0
Idaho	151	42	27.8	7	4.6	101	66.9	1	0.7
Illinois	1,089	181	16.6	4	0.4	902	82.8	2	0.2
Indiana	735	332	45.2	81	11.0	312	42.4	10	1.4
Iowa	337	120	35.6	0	0.0	217	64.4	0	0.0
Kansas	327	131	40.1	2	0.6	181	55.4	13	4.0
Kentucky	607	225	37.1	4	0.7	375	61.8	3	0.5
Louisiana	662	367	55.4	63	9.5	206	31.1	26	3.9
Maine	148	102	68.9	0	0.0	46	31.1	0	0.0
Maryland	559	23	4.1	7	1.3	461	82.5	68	12.2
Massachusetts	324	2	0.6	0	0.0	291	89.8	31	9.6
Michigan	1,212	391	32.3	51	4.2	770	63.5	0	0.0
Minnesota	457	230	50.3	20	4.4	138	30.2	69	15.1
Mississippi	574	421	73.3	0	0.0	153	26.7	0	0.0
Missouri	826	65	7.9	6	0.7	738	89.3	17	2.1
Montana	122	79	64.8	0	0.0	31	25.4	12	9.8
Nebraska	210	151	71.9	0	0.0	59	28.1	0	0.0
Nevada	290	110	37.9	1	0.3	179	61.7	0	0.0
New Hampshire	97	45	46.4	8	8.2	17	17.5	27	27.8
New Jersey	660	245	37.1	5	0.8	410	62.1	0	0.0
New Mexico	328	58	17.7	17	5.2	244	74.4	9	2.7
New York	1,386	36	2.6	5	0.4	10	0.7	1,335	96.3
North Carolina	1,142	1	0.1	101	8.8	994	87.0	46	4.0
North Dakota	60	9	15.0	2	3.3	46	76.7	3	5.0
Ohio	1,045	178	17.0	136	13.0	696	66.6	35	3.3
Oklahoma	555	17	3.1	4	0.7	473	85.2	61	11.0
Oregon	366	159	43.4	1	0.3	204	55.7	2	0.5
Pennsylvania	1,221	141	11.5	53	4.3	802	65.7	225	18.4
Rhode Island	54	8	14.8	6	11.1	40	74.1	0	0.0
South Carolina	619	26	4.2	42	6.8	540	87.2	11	1.8
South Dakota	84	48	57.1	2	2.4	21	25.0	13	15.5
Tennessee	869	402	46.3	1	0.1	463	53.3	3	0.3
Texas	2,678	658	24.6	40	1.5	1,763	65.8	217	8.1
Utah	270	169	62.6	0	0.0	100	37.0	1	0.4
Vermont	78	18	23.1	0	0.0	53	67.9	7	9.0
Virginia	709	6	0.8	16	2.3	586	82.7	101	14.2
Washington	500	100	20.0	6	1.2	382	76.4	12	2.4
West Virginia	282	53	18.8	3	1.1	225	79.8	1	0.4
Wisconsin	497	196	39.4	1	0.2	300	60.4	0	0.0
Wyoming	82	30	36.6	0	0.0	51	62.2	1	1.2
U.S. Total	31,958	8,195	25.6	1,022	3.2	20,011	62.6	2,730	8.5
Puerto Rico	510	288	56.5	18	3.5	204	40.0	0	0.0



Table 9. Blood Alcohol Concentration (BAC) Test Status for Drivers, Pedestrians, and Pedalcyclists Involved in Fatal Traffic Crashes, 1982 and 1997

State	1982			1997		
	Total Involved	Tested With Known Results		Total Involved	Tested With Known Results	
		Number	Percent		Number	Percent
Alabama	1,161	110	9.5	1,726	479	27.8
Alaska	159	58	36.5	107	71	66.4
Arizona	1,093	315	28.8	1,416	227	16.0
Arkansas	765	80	10.5	915	463	50.6
California	6,896	3,575	51.8	5,791	3,011	52.0
Colorado	925	596	64.4	879	509	57.9
Connecticut	773	332	42.9	513	284	55.4
Delaware	201	169	84.1	206	149	72.3
District of Columbia	64	33	51.6	110	17	15.5
Florida	4,420	1,067	24.1	4,648	1,536	33.0
Georgia	1,808	869	48.1	2,384	1,826	76.6
Hawaii	240	126	52.5	202	134	66.3
Idaho	315	52	16.5	324	151	46.6
Illinois	2,524	883	35.0	2,177	1,095	50.3
Indiana	1,405	470	33.5	1,444	732	50.7
Iowa	675	173	25.6	683	303	44.4
Kansas	703	88	12.5	686	343	50.0
Kentucky	1,143	523	45.8	1,245	568	45.6
Louisiana	1,681	397	23.6	1,360	641	47.1
Maine	237	70	29.5	286	227	79.4
Maryland	975	423	43.4	1,031	408	39.6
Massachusetts	996	72	7.2	687	304	44.3
Michigan	2,177	796	36.6	2,264	1,143	50.5
Minnesota	847	413	48.8	908	622	68.5
Mississippi	980	90	9.2	1,170	873	74.6
Missouri	1,263	201	15.9	1,716	690	40.2
Montana	322	125	38.8	309	211	68.3
Nebraska	376	200	53.2	428	318	74.3
Nevada	392	272	69.4	559	319	57.1
New Hampshire	249	89	35.7	187	115	61.5
New Jersey	1,686	889	52.7	1,240	690	55.6
New Mexico	773	369	47.7	639	317	49.6
New York	3,430	951	27.7	2,678	488	18.2
North Carolina	1,932	427	22.1	2,226	844	37.9
North Dakota	203	14	6.9	137	45	32.8
Ohio	2,353	650	27.6	2,150	656	30.5
Oklahoma	1,538	592	38.5	1,172	283	24.1
Oregon	732	410	56.0	749	509	68.0
Pennsylvania	2,728	1,063	39.0	2,397	802	33.5
Rhode Island	159	80	50.3	107	59	55.1
South Carolina	1,093	294	26.9	1,311	314	24.0
South Dakota	197	126	64.0	186	120	64.5
Tennessee	1,464	836	57.1	1,783	1,071	60.1
Texas	6,028	125	2.1	5,248	1,676	31.9
Utah	425	278	65.4	503	333	66.2
Vermont	141	104	73.8	151	63	41.7
Virginia	1,284	454	35.4	1,458	551	37.8
Washington	1,068	561	52.5	979	493	50.4
West Virginia	605	267	44.1	553	274	49.5
Wisconsin	1,114	554	49.7	1,034	660	63.8
Wyoming	257	121	47.1	164	90	54.9
U.S. Total	64,975	21,832	33.6	63,226	28,107	44.5
Puerto Rico	818	256	31.3	1,006	651	64.7

Table 10. Estimated Percent Alcohol-Related Fatalities and Drivers With High Alcohol in Fatal Crashes by Region and State, 1982 and 1997

Region and State	Estimated Percent of Alcohol-Related Fatalities (Driver or Nonoccupant with BAC $\geq$ 0.01 g/dl)		Estimated Percent of Drivers With High Alcohol in Fatal Crashes (BAC $\geq$ 0.10 g/dl)	
	1982	1997	1982	1997
<b>Region I</b>				
Connecticut	68.3%	45.0%	37.4%	21.9%
Maine	49.6%	33.4%	27.1%	16.5%
Massachusetts	59.6%	47.4%	32.1%	21.9%
New Hampshire	58.4%	47.7%	31.5%	24.5%
Rhode Island	66.1%	54.6%	35.3%	30.2%
Vermont	64.3%	35.8%	30.8%	16.6%
<b>Region II</b>				
New Jersey	56.0%	36.4%	25.7%	14.0%
New York	47.1%	27.4%	22.0%	12.1%
*Puerto Rico	48.9%	49.5%	22.0%	21.2%
<b>Region III</b>				
Delaware	65.9%	42.7%	35.6%	18.9%
District of Columbia	59.8%	58.5%	24.7%	24.1%
Maryland	54.4%	36.3%	27.7%	14.3%
Pennsylvania	58.5%	40.5%	29.9%	20.2%
Virginia	52.8%	38.9%	27.5%	18.9%
West Virginia	50.8%	38.6%	29.7%	20.0%
<b>Region IV</b>				
Alabama	55.7%	39.8%	29.8%	19.4%
Florida	46.6%	33.6%	22.5%	13.7%
Georgia	58.6%	36.6%	29.5%	15.3%
Kentucky	53.9%	32.6%	26.9%	16.3%
Mississippi	56.3%	40.0%	30.0%	21.4%
North Carolina	60.1%	35.6%	30.3%	15.6%
South Carolina	59.0%	35.2%	29.6%	17.1%
Tennessee	62.4%	40.6%	35.3%	20.0%
<b>Region V</b>				
Illinois	58.6%	42.1%	28.6%	19.8%
Indiana	48.5%	32.9%	25.9%	16.1%
Michigan	59.6%	38.6%	31.5%	16.7%
Minnesota	54.5%	32.2%	29.6%	15.6%
Ohio	56.5%	33.0%	31.2%	16.3%
Wisconsin	61.6%	45.3%	36.3%	22.8%
<b>Region VI</b>				
Arkansas	61.1%	29.2%	33.5%	13.6%
Louisiana	54.6%	46.1%	25.4%	20.6%
New Mexico	63.6%	45.5%	34.2%	21.2%
Oklahoma	56.1%	36.0%	27.5%	17.3%
Texas	68.5%	49.8%	38.0%	23.7%
<b>Region VII</b>				
Iowa	47.0%	37.2%	24.4%	16.8%
Kansas	45.0%	29.5%	23.6%	14.5%
Missouri	50.1%	42.7%	25.8%	20.4%
Nebraska	48.0%	34.6%	25.2%	16.5%
<b>Region VIII</b>				
Colorado	62.3%	35.6%	35.3%	16.8%
Montana	65.8%	45.3%	37.4%	31.0%
North Dakota	64.1%	47.8%	37.6%	27.8%
South Dakota	60.1%	41.3%	35.5%	22.9%
Utah	38.3%	20.6%	20.6%	7.8%
Wyoming	55.3%	31.5%	31.3%	16.0%
<b>Region IX</b>				
Arizona	56.3%	45.5%	26.8%	20.6%
California	58.9%	35.6%	30.9%	14.4%
Hawaii	61.4%	44.7%	33.5%	20.5%
Nevada	66.7%	46.2%	36.1%	18.4%
<b>Region X</b>				
Alaska	54.7%	52.8%	35.6%	26.3%
Idaho	44.0%	39.6%	25.8%	21.4%
Oregon	62.8%	43.5%	35.0%	21.0%
Washington	63.5%	44.4%	37.3%	21.2%
<b>U.S. Total</b>	<b>57.3%</b>	<b>38.6%</b>	<b>30.0%</b>	<b>17.8%</b>

\* Not included in U.S. total

## YOUNG DRIVERS

There were 179.5 million licensed drivers in the United States in 1996 (1997 data not available). Young drivers, between 15 and 20 years old, accounted for 6.7 percent (12.1 million) of the total, a 7.6 percent decrease from the 13.1 million young drivers in 1986.

In 1997, 7,885 15- to 20-year-old drivers were involved in fatal crashes—a 23 percent decrease from the 10,193 involved in 1987. Driver fatalities for this age group decreased by 27 percent between 1987 and 1997. For young males, driver fatalities dropped by 32 percent, compared with a 12 percent decrease for young females (Table 3).

Motor vehicle crashes are the leading cause of death for 15 to 20 year olds (based on 1994 figures, which are the latest mortality data currently available from the National Center for Health Statistics). In 1997, 3,336 drivers 15 to 20 years old were killed, and an additional 365,000 were injured, in motor vehicle crashes.

In 1997, 14 percent (7,885) of all the drivers involved in fatal crashes (56,602) were young drivers 15 to 20 years old, and 17 percent (2,001,000) of all the drivers involved in police-reported crashes (12,066,000) were young drivers.

Almost one-third (312) of the 15- to 20-year-old drivers involved in fatal crashes who had an invalid operator's license at the time of the crash also had a previous license suspension or revocation. For the same age group, almost 30 percent of the drivers who were killed in motor vehicle crashes during 1997 had been drinking (Table 4).

In 1997, the estimated economic cost of police-reported crashes involving drivers between 15 and 20 years old was \$31.9 billion.

When driver fatality rates are calculated on the basis of estimated annual travel, the highest rates are found among the youngest and oldest drivers. Compared with the fatality rate for drivers 25 through 69 years old, the rate for teenage drivers (16 to 19 years old) is about 4 times as high, and the rate for drivers in the oldest group is 9 times as high.

Female drivers under age 50 have a lower fatality rate than their male counterparts, on a per-mile-driven basis, while the rate is essentially the same for both male and female drivers over 50 years of age, with the exception of the oldest group (Figure 2).

#### MOTORCYCLES

During 1997, 181 young motorcycle drivers (15–20 years old) were killed and an additional 5,000 were injured.

Helmets are estimated to be 29 percent effective in preventing fatalities among motorcyclists. NHTSA estimates that helmets saved the lives of 486 motorcyclists of all ages in 1997, and that if all motorcyclists had worn helmets, an additional 266 lives could have been saved.

During 1997, 47 percent of the motorcycle drivers between 15 and 20 years old who were fatally injured in crashes were not wearing helmets.

Of the young motorcycle drivers involved in fatal crashes in 1997, more than one-quarter (28 percent) were either unlicensed or driving with an invalid license.

#### ALCOHOL

NHTSA defines a fatal traffic crash as being alcohol-related if either a driver or a nonoccupant (e.g., pedestrian) had a blood alcohol concentration (BAC) of 0.01 grams per deciliter (g/dl) or greater in a police-reported traffic crash. Persons with a BAC of 0.10 g/dl or greater involved in fatal crashes are considered to be intoxicated. This is the legal limit of intoxication in most States.

In 1997, 21 percent of the young drivers 15 to 20 years old who were killed in crashes were intoxicated.

The severity of a crash increases with alcohol involvement. In 1997, 3 percent of the 15- to 20-year-old drivers involved in property-damage-only crashes had been drinking, 4 percent of those involved in crashes resulting in injury had been drinking, and 21 percent of those involved in fatal crashes had been drinking.

In both the categories of drivers killed and drivers involved in fatal crashes, the numbers of drivers 15 to 20 years old who were intoxicated dropped by 48 percent between 1987 and 1997.

All States and the District of Columbia now have 21-year-old minimum drinking age laws. NHTSA estimates that these laws have reduced traffic fatalities involving drivers 18 to 20 years old by 13 percent and have saved an estimated 17,359 lives since 1975. In 1997, an estimated 846 lives were saved by minimum drinking age laws. Fifteen States have set 0.08 g/dl as the legal intoxication limit, and forty-six States plus the District of Columbia have zero tolerance laws for drivers under the age of 21 (it is illegal for drivers under 21 to drive with BAC levels of 0.02 g/dl or greater).

For young drivers 15 to 20 years old, alcohol involvement is higher among males than among females. In 1997, 25 percent of the young male drivers involved in fatal crashes had been drinking at the time of the crash, compared with 12 percent of the young female drivers involved in fatal crashes.

Drivers are less likely to use restraints when they have been drinking. In 1997, 71 percent of the young drivers of passenger vehicles involved in fatal crashes who had been drinking were unrestrained. Of the young drivers who had been drinking and were killed in crashes, 79 percent were unrestrained.

Figure 7. Driver Fatalities and Drivers Involved in Fatal Crashes Among Drivers 16 to 70 Years Old, 1987-1997

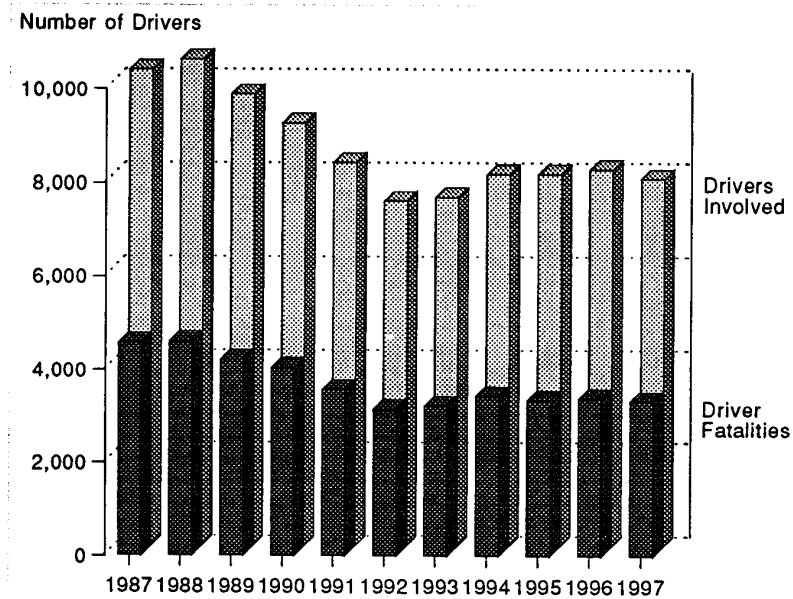


Table 5. Drivers Involved in 1997 Fatal Crashes by Age Group and 1996 Driver Involvement Rates

	Age Group (Years)							
	15-20	21-24	25-34	35-44	45-54	55-64	65-69	70+
1997 Population (Percent)	8.5	5.1	14.8	16.4	12.6	8.2	3.6	9.1
Drivers Involved in 1997 Fatal Crashes (Percent)								
Single-Vehicle	18.3	12.4	23.4	18.6	11.9	6.3	2.5	6.2
Multi-Vehicle	12.0	9.0	21.8	20.1	14.3	8.8	3.5	10.4
All Fatal Crashes	14.2	10.2	22.4	19.6	13.5	7.9	3.1	8.9
1996 Licensed Drivers* (Percent)	6.7	6.9	21.3	22.6	17.3	10.9	4.7	9.5
Drivers Involved in 1996 Fatal Crashes per 100,000 Licensed Drivers	65.1	45.7	35.1	26.7	24.0	22.2	20.3	28.8

\* 1997 data not available.

Source: Bureau of Motor Vehicle Safety, Department of Transportation, 1994.  
 \* Includes 51 drivers with unknown license status.

Driving Record	License Status					
	Valid (6,778)		Invalid (1,056)		Total (7,885)*	
	Number	Percent	Number	Percent	Number	Percent
Previous Recorded Crashes	1,295	19.4	133	14.4	1,428	15.8
Previous Recorded Suspensions or Revocations	438	6.5	312	32.7	750	9.7
Previous DWI Convictions	66	1.0	67	7.0	133	1.7
Previous Speeding Convictions	1,613	23.8	170	17.8	1,783	23.1
Previous Other Harmful or Moving Convictions	1,223	18.1	201	21.1	1,424	18.4

\* Includes 51 drivers with unknown license status.

Figure 2. Driver Fatality Rates by Age and Sex, 1994

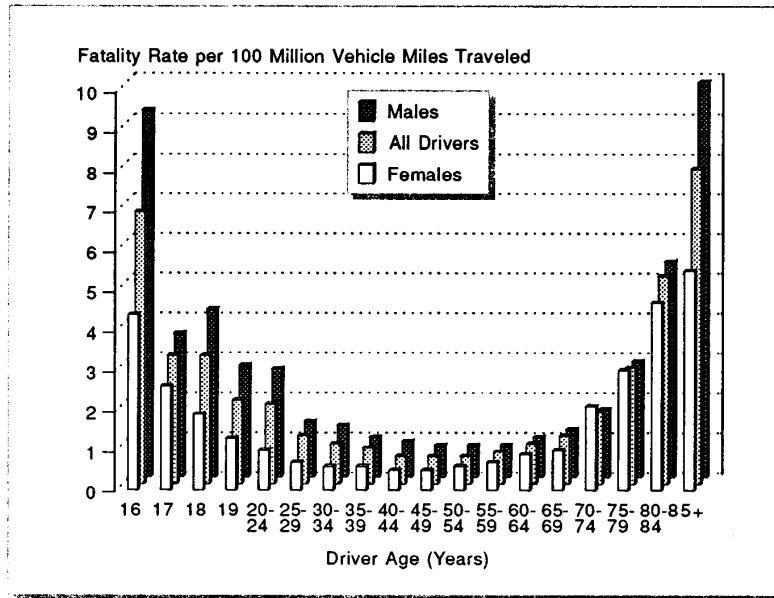


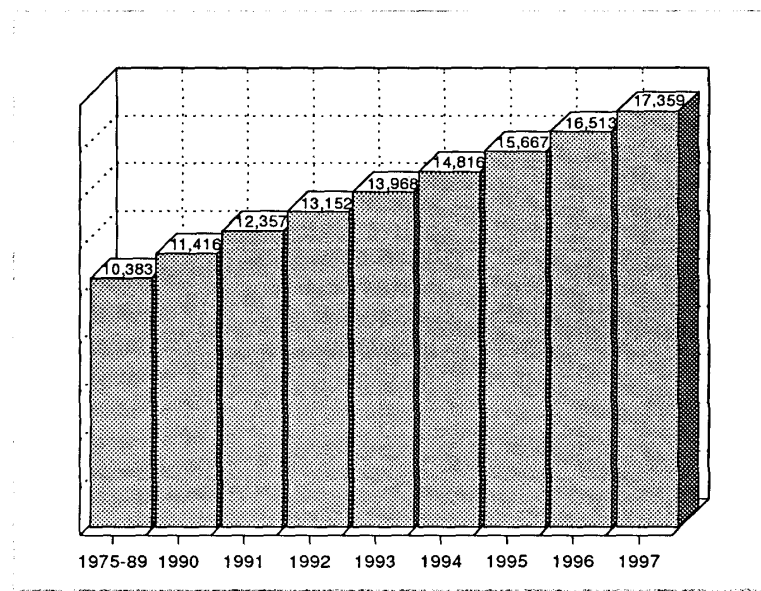
Table 3. Involvement of Drivers 15 to 20 Years Old in Fatal Crashes, 1987 and 1997

	1987			1997			Percentage Change, 1987-1997		
	Total	Age 15-20	Percentage of Total	Total	Age 15-20	Percentage of Total	Number		Percentage Age 15-20
							Total	Age 15-20	
Drivers Involved in Fatal Crashes									
Total	61,442	10,193	16.6	56,602	7,885	13.9	-8%	-23%	-16%
Male	46,884	7,773	16.6	40,658	5,582	13.7	-13%	-28%	-17%
Female	13,614	2,420	17.8	14,846	2,303	15.5	+9%	-5%	-13%
Driver Fatalities									
Total	26,833	4,582	17.1	24,644	3,336	13.5	-8%	-27%	-21%
Male	20,688	3,499	16.9	17,767	2,380	13.4	-14%	-32%	-21%
Female	6,143	1,083	17.6	6,750	956	14.2	+10%	-12%	-20%

Table 4. Alcohol Involvement Among Drivers 15 to 20 Years Old Involved in Fatal Crashes, 1997

Driver Status	Number of Drivers	Percentage With BAC Levels		
		0.00 g/dl	0.01-0.09 g/dl	≥0.10 g/dl
Surviving	4,549	84.4	6.9	8.7
Fatally Injured	3,336	71.5	7.4	21.1
Total	7,885	78.9	7.1	14.0

Figure 3. Cumulative Estimated Number of Lives Saved by Minimum Drinking Age Laws, 1975-1997





## **IMPLEMENTATION OF THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY**

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**THURSDAY, APRIL 29, 1999**

U.S. SENATE,  
SUBCOMMITTEE ON TRANSPORTATION AND  
INFRASTRUCTURE,  
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,  
*Washington, DC.*

### **SECTION 1309 IMPLEMENTATION**

The subcommittee met, pursuant to notice, at 9:35 a.m., in room 406, Senate Dirksen Building, Hon. George V. Voinovich (chairman of the subcommittee) presiding.

Present: Senators Voinovich, Baucus, and Chafee [ex officio].

#### **OPENING STATEMENT OF HON. GEORGE V. VOINOVICH, U.S. SENATOR FROM THE STATE OF OHIO**

Senator VOINOVICH. The committee will please come to order.

I am pleased that all of you are here this morning to testify on streamlining and project delivery. I welcome in the first panel the Honorable Thomas Carper, Governor of Delaware, who is testifying on behalf of the National Governors' Association. Tom, I am so glad that you are here today. I have worked with Tom over the years when we both were members of the National Governors' Association.

The next panelist is, Mr. Charles Thompson, Secretary of the Wisconsin Department of Transportation and chairman of the American Association of State Highway and Transportation Officials. Mr. Thompson has been a long-time friend and as a matter of fact, he was a mentor of mine in several organizations.

The Honorable Brian A. Mills, commissioner of Cass County, MO, and Chairman of the Association of Metropolitan Planning Organizations.

Next, Mr. Jerry Alb, Director of Environmental Services, Washington State Department of Transportation.

On panel two we will welcome Tim Stowe, chairman of Transportation Programs of the American Consulting Engineers Council; Mr. Roy Kienitz, executive director of the Surface Transportation Policy Project; Mr. Brian Holmes, executive secretary of the Connecticut Road Builders Association, a member of the American Road and Transportation Builders Association; and finally, Mr. Mitch Leslie, president of the Montana Contractors Association on behalf of the Associated General Contractors.



Over the years, as a local official, on just about every level: city, county, State, I constantly received complaints regarding the amount of time it took to undertake and complete large construction projects. As the years went on, quite frankly, it got worse.

A part of my response to my constituents was to inform them that federally-required environmental considerations and regulations accounted for exhaustive review throughout the construction process. That didn't give them a lot of comfort.

Anyone in this room who has sat in traffic day after day because of construction can appreciate the general lack of sympathy for the reasons why a project takes too long or why it takes so long to undertake a project. People just want to get it done.

To be sure environmental review is good public policy, wetland impact, historical and archeological evaluation, testing for hazardous substances must all be given proper review prior to moving forward on highway and bridge construction projects.

Nevertheless, I believe that there are more efficient ways to ensure timely delivery of these types of construction projects while still carefully assessing environmental concerns.

With my background as a Governor, I bring a unique perspective on this issue. I have witnessed first-hand the frustration of many of the various State agencies because they were required to complete a myriad of federally-required tasks on whatever project they initiated.

Congress, too, recognized this frustration, prompting several of our Senate colleagues, members of this committee I might add, to come up with a program to initiate environmental streamlining in TEA-21 that they hoped would improve the situation and achieve quicker project delivery.

This new program is embodied in section 1309 of TEA-21. As my colleagues know, section 1309 of TEA-21 calls for the establishment of a coordinated review process for the Department of Transportation to work with other Federal agencies to ensure that transportation projects are advanced according to cooperatively determined timeframes. This is accomplished by using concurrent rather than sequential reviews and allowing States to include State-specific environmental reviews in the coordinating process, get everybody at the table and let's get this thing done.

With the passage of TEA-21 approaching its first 1-year anniversary, I believe it is important to hear from our customers in regard to their observations on whether the Administration has listened to the will of Congress under 1309 and to get their insight on improving environmental streamlining as was intended in 1309.

On May 20, we will be holding another subcommittee hearing to ascertain the Administration's implementation plans with respect to section 1309. The Administration will present the Federal Highway Administration and Federal Transportation Administration's guidance paper titled, TEA-21, Planning in Environmental Provisions, Options for Discussion, as it relates to section 1309.

Many of our witnesses today have already commented on this guidance paper and I think will do so again this morning. Therefore, it is my wish, and I am giving the department plenty of notice, that the Administration react to the comments and testimony of today's witnesses in time for that May 20 hearing.

If you look at the charts there, the first one is from Ohio. It is called, "So you want a highway?" It says, "Here is the 8-year hitch." In Wisconsin they have called the process a long and winding road.

My hope, so that everybody understands where I am coming from, my hope is that as a result of these hearings we can measurably improve the process of environmental review as envisioned in 1309, and shorten the time it takes to bring a project to completion. It would be nice 3 years from now for us to see that sign up there that says, "So you want a highway," and instead of saying, "Here is the 8-year hitch," we could say, "Here is the 5-year hitch."

So that is what we are after. We are going to establish a baseline with the Department as to where we are and how long it takes and then we are going to start to measure whether or not we truly improve upon that process. We are going to come back and revisit it and just see how we are doing in terms of getting it done and we are going to continue to hear from them and can hear from our customers to find out whether or not what Congress envisioned in 1309 is really taking place.

Of course the basic reason for all of this is to take care of our ultimate customers and those are the people of this country who pay the gas taxes and use the highways and want to make sure that things get done and also at the same time take into consideration our environmental concerns.

So, without further words I would like to call on our outstanding chairman, John Chafee, for his remarks this morning.

**OPENING STATEMENT OF HON. JOHN H. CHAFEE,  
U.S. SENATOR FROM THE STATE OF RHODE ISLAND**

Senator CHAFEE. Thank you very much, Mr. Chairman. First I want to commend you for holding this oversight hearing on this very important matter. As you have pointed out, this is one of two hearings you are having, the other one being, I believe, May 20 for the Administration.

One of the provisions we will focus on today is section 1309 of TEA-21 which requires USDOT to establish a coordinated environmental review process for highway projects in order to encourage timely consideration of the environmental impacts. We were clear what we wanted when we did this bill. We wanted a new and improved process. I am hopeful that today's hearing and the one coming up with the Administration will give us a better understanding of how the agencies plan to meet these goals.

Again, I want to commend you, Mr. Chairman. Unfortunately, at 10 o'clock I have to proceed to another engagement, but I will look forward to reviewing the record on this and reading the opening statements of the witnesses. Thank you.

Mr. Voinovich. Thank you, Mr. Chairman. Senator Baucus.

**OPENING STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR  
FROM THE STATE OF MONTANA**

Senator BAUCUS. Thank you, Mr. Chairman. I appreciate your holding this hearing. It is obviously important that we try to streamline TEA-21. As those of us who worked on the bill know, we hope to add provisions in TEA-21 which would make the earlier

unnecessarily complex and complicated highway bill more simple. But the problem is that that is not what happened.

I might say that prior to TEA-21 there were 23 separate factors that States had to consider in developing their transportation plans and for metropolitan planning there were 15 factors that had to be considered, analyzed and as we know, section 1309 is an attempt to streamline and try to reduce an awful lot of that. That is, to identify early on key issues, encourage early participation by all agencies, and establish a coordinated schedule for agency decisions and actions. That was the point of that section in that bill.

That is, we sought simpler, more coordinated process, but, one that did not diminish the thoroughness of the reviews or the opportunity for full public input in decisions.

However, what the options paper suggests unfortunately, is a more complicated process, additional Federal requirements, less flexibility for the States. Clearly, that was not the intent of Congress nor the intent of others who were interested in what Congress was doing.

I hope, then, today that our witnesses can shed more light on the flaws that have developed in the Department's approach so that we can correct things before they are written in stone, or as some might say, written in concrete.

Senator CHAFEE. Mr. Chairman, I have an Intelligence Committee hearing at 10 o'clock on a very important matter and I regret that I will be unable to stay past 10 o'clock. I know you will handle this well and you will get the information that we need to have. Thank you very much.

Senator VOINOVICH. Thank you.

Senator BAUCUS. I also want to say that a great Montanan, Mitch Leslie, is here representing the AGC. I have worked with Mitch for many years, particularly on the Highway bill, and even more particularly on a subject which is very close to what we are talking about today, and that is streamlining not the Federal Highway Administration so much, but the Montana Department of Transportation to make sure that we can get the money spent and get those roads built. Thank you.

Senator VOINOVICH. Governor Carper.

**STATEMENT OF HON. THOMAS CARPER, GOVERNOR, STATE OF DELAWARE, REPRESENTING THE NATIONAL GOVERNORS' ASSOCIATION**

Governor CARPER. Mr. Chairman, thank you very much. To Senator Chafee and Senator Baucus, it is a pleasure to be with you. I have been calling Senator Voinovich "Mr. Chairman" for a long time. He was the chairman of Jobs for America's Graduates and I was his vice-chairman. He was chairman of the National Governors' Association. I was his vice-chairman. I am here today and I am still calling him "Mr. Chairman" and probably will be for a long time.

It is great of you to hold this hearing. Thank you for giving us a chance to come by and to testify today. It is a real special privilege to be with Chuck Thompson from Wisconsin with whom my family and I—one of the times I succeeded you, Mr. Chairman, as chairman of the NGA back in Wisconsin, my family and I vaca-

tioned in that State. We had a wonderful time and got to know not only Governor Tommy Thompson, but Chuck Thompson and his family were just great, too. It is good to be with him again.

Mr. Chairman, I am especially pleased to hear you mention checking with your customers and asking your customers what we think. We have a lot of banks in our little State of Delaware. One of those banks is a big credit card bank called MBNA and throughout their buildings, as you go under the archways of the doors, they have the slogan, "Think of Yourself as the Customer." "Think of Yourself as the Customer." One does not always sense when you go to Washington, a Federal agency or the Congress, for that matter, that everybody who works here thinks of himself as a customer. I am very appreciative of that spirit that you have brought here and reinforced here on the Hill.

In short, with respect to TEA-21, I just say from my perspective as a Governor of a little State and chairman of the NGA, I am encouraged that it is working. We are most appreciative. I think maybe one of the great triumphs for federalism in my time in public service was TEA-21 and the decision to take the dollars that are paid by folks who are buying motor fuel, aviation, whatever, but take the moneys that are collected at the gas pump and actually turn them back over to the State to use for transportation projects, whether they are highways, whether it is transportation, whether it is safety, whether it is rail.

I think it is a great triumph. We are mindful of that and appreciative of that. In terms of the dollars actually flowing back to the States, the early indications are that it is working pretty much as advertised. The development of the regulations, as you know, is ongoing. Some of them are done. Some of them are not. We have recently seen the publication of regulations dealing with welfare reform, with TANF and with some other areas that you have legislated on here in Congress.

It is possible for those who work within an administration, through the regulatory process, to take away some of the flexibility that the Congress has provided in the legislation.

I am encouraged that the spirit at DOT is that they would like to preserve the measures of flexibility that you provide for us. It is just something we have to be vigilant about, to stay on guard and to remind our friends in the executive branch that we are interested in seeing that flexibility preserved and to encourage them to do so.

The process we see over here, the long and winding road, I spoke in my State of the State Message back in January in Delaware. I talked about giving the last State of the State Message of any Governor in this century and I talked about the guy who gave the first one. I actually went back and read the first one, 99 years ago. Among the things he talked about were education, crime, this and that. He also talked about a highway project they were trying to get done that we are still trying to get done.

It is not quite that bad, but you get my drift. It is a long and winding road and we just have to work and be diligent in the regulatory process to make sure that the regulations reflect the spirit of the law.

Another issue I discussed with Senator Chafee any number of times and he has been enormously supportive of deals with flexibility for States, particularly to deal with mitigating and providing for cleaner air.

In the legislation that you all have passed here in recent years, including this one, you allow Highway Trust Fund moneys to be used for mass transit. You give States and Governors the right to use the money to buy buses. You give us the right to use the money for light rail, for bike paths, for pedestrian walkways, snowmobiles, technology research, intermodal freight facilities, driver education programs, and a lot more. That is well and good.

If it makes sense in my State or your State to be able to use some of these moneys for passenger rail in order to mitigate against pollution and to move people through a State, we can't do that. That just doesn't make sense. I think it is a matter of States' rights and a matter of flexibility for States. That is just one that cries out to be addressed and corrected. I would urge you to keep that in mind.

We are not interested in mandating the States spend a dime of the money for passenger rails, but I think we ought to at least have the flexibility to decide what works in Delaware, Montana, or Ohio or Rhode Island, for that matter.

The last thing I want to mention is the court ruling that we are aware of that came down from the U.S. Court of Appeals about a month and a half ago. It takes away, it really wipes out a regulation that EPA granted, promulgated, one that we worked very hard with them on. The regulation is one that says, "Basically, even if you are a State or a region of the country where you are out of compliance with the Clean Air Act, your transportation program is out of compliance."

If it was adopted at a time and a project was undertaken at a time when that region was in compliance, the regulation said you could go forward with that project. The court ruling takes that away. We are disappointed that EPA hasn't gone forward and appealed that ruling.

Having said that, we are endeavoring to work with EPA to come up with another regulation that would give us some flexibility that the court ruling has taken away.

There are about 10 or so projects right now that are, I guess, valued at about \$100 million that are effected. We think ultimately it will be close to 100 projects valued at more than \$1 billion that could be effected in this way and make that long and winding road even more tortuous as we go forward.

In summary, TEA-21 is a great triumph for federalism. We need to be vigilant as the regulations are adopted. With respect to the court ruling that I alluded to, we are not today calling for some kind of congressional intervention to try to set that right. We would like to try to work again with EPA and DOT. I think they are trying to be helpful and responsive to our concerns. If ultimately we are not successful there, we will come back and see if we can't make some progress.

I have been invited to go over and meet with Congressman Bill Young, who chairs the House Appropriations Committee, at 10:15 and the subject is tobacco recoupment.

Let me just say in closing, thank you very much for your inclusion of tobacco recoupment provisions, the Hutchinson-Gramm language that was adopted by the Senate and included in the supplemental appropriation. Thank you very much for doing that.

I am going to slip over to the House side to encourage them to recede and concur to the Senate position on that matter. Mr. Chairman, thank you very much.

Senator VOINOVICH. Thank you very much. I wish you good luck.

Senator CHAFEE. Just one quick word, Governor. I am very interested in your flexibility to use rail passenger service. As you know, we passed it here in the Senate, I believe three times. So while you are over in the House today, give them the word.

Governor CARPER. Thank you, sir. Thank you for your leadership on that.

Senator VOINOVICH. I just met with Carol Browner, the EPA Administrator, with regard to the conformity issue and laid out our concerns about it. We are going to be anxious to see what their response is to this.

Governor CARPER. Good.

Senator VOINOVICH. Our next panelist is Charles Thompson, secretary of the Wisconsin Department of Transportation who is chairman of the Standing Committee on Environment, AASHTO. I would like to congratulate AASHTO on the good work that they do. I know that the National Governors' Association last year worked very closely with you when we were trying to coordinate our lobbying effort to get TEA-21 passed. We appreciate that great cooperation. We are anxious to hear from you this morning.

**STATEMENT OF CHARLES THOMPSON, SECRETARY OF WISCONSIN DOT, CHAIRMAN OF STANDING COMMITTEE ON ENVIRONMENT, AASHTO**

Mr. THOMPSON. Well, thank you, Mr. Chairman. Senator Baucus, Senator Chafee, it is a pleasure to be here representing AASHTO. I want to thank the committee for the leadership that you have shown over the years in passing the Transportation Equity Act of the 21st Century. I think the major focus that you put forth in the Senate and in the House was that in the reauthorization debate you were listening to our concerns. You were listening to the message we were sending and you sent the message, "make it simple."

I think that is what I would like to talk about today. As the Federal Highway Administration and the Federal Transit Administration move together to issue the guidance regarding TEA-21's planning and the environmental provisions, we are concerned about their approach. We want it to reflect your intentions. We want to make it simple and we would like to see it streamlined in the planning and the project approval process.

Last week, AASHTO submitted comments on the FHWA and FTA TEA-21 options paper. We laid out three key principles we hope they will follow. Federal guidance should rely on statutory language rather than embellish it with regulations. States need the maximum flexibility to implement the law in their own way.

When regulations are required by law they should be developed through partnering with the States, the MPOs and the stake hold-

ers who must implement them. They should be permissive rather than restrictive.

The balance in planning and programming authority established in ISTEA between Federal, State, and local implementation agencies should be maintained. One of the most important provisions that you included in TEA-21 was section 1309 which called for better coordination for the Federal agency review process.

As you are aware, transportation projects undergo a rigorous environmental review and that piece that we have, the long winding road, is an example that we put together in Wisconsin of the environmental process and others that we must go through.

Once that hurdle is passed, we still must wait for more reviews of other agencies, a process that takes literally years to complete. Let me just cite some examples: the Stillwater Bridge between Minneapolis-St. Paul and Wisconsin has been stalled since 1985. In 1995 it appeared that Federal reviews were complete and Minnesota and Wisconsin invested \$14 million in the project, only to come to another standstill because two Department of Interior agencies did not agree on what needed to be done.

In Connecticut, since planning for Route 6 improvements began in the 1960's more than 180 different alternatives have been considered while different Federal agencies have been inflicting findings about environmental impacts.

Last year Congress made it clear, made it clear they were not satisfied with the delays and unnecessary duplication of effort and the added cost and the use of Federal funds to get our process to work. We agree with what Congress has put forth. TEA-21 directs the Secretary of Transportation to develop a concurrent process so that Federal agencies are brought in at the outset to review projects simultaneously. This change, we think, is vitally needed. But it will only come about if Congress continues to have the oversight over the process that they are going through.

AASHTO agrees and urges the USDOT to develop as soon as possible a memorandum of understanding regarding streamlining to be signed by all Federal agencies with approval or review authority over surface transportation projects.

The State transportation departments who implement these Federal Programs need to be involved in the process and we would like to be involved before the final rules are adopted. We have been encouraged by the spirit of cooperation in recent meetings AASHTO has held with the Federal Highway Administration and the Environmental Protection Agency. I have to commend them because they have attended the meetings that we have requested that they come to and they have indicated they will begin to move in that direction.

The projects that I demonstrated earlier, through the involvement of the other Federal agencies, need make sure that we have better assessments and better mitigation. In every case the projects went beyond mere compliance in the law and developed solutions which proved better for the communities involved. Each was done in a shorter period of time.

Experience has shown that longer is not necessarily better. These projects show that earlier involvement, concurrent review in the design can mean results that are shorter and better. Encouraged

by these examples, AASHTO has agreed to work with FHWA and the EPA to develop 8 to 10 State projects to demonstrate the art of the possible in environmental streamlining.

The goal of these environmental vanguard initiatives will be to test out different approaches to collaboration and then share what has been learned with other States, Federal agencies, and the public. AASHTO is also launching an environmental best practices competition to highlight good examples of State DOTs working in partnership with regulatory agencies and environmental organizations to produce transportation projects that improve both mobility and the environment.

To make streamlining work, we recognize the need to improve the level of trust and communication between States and Federal agencies and the environmental groups that are concerned. We believe that working together on the environmental vanguard initiatives that are proposed and making them aware of the examples of environmental best practices already underway will certainly help.

Allow me to quickly address the recent ruling on grandfathered projects. On March 2, the U.S. Court of Appeals ruled in favor of the Environmental Defense Fund in a suit filed against the EPA. This decision overturns several of the more flexible provisions the EPA had included in its regulation concerning conformity of transportation plans with State air quality improvement plans.

Both you and AASHTO urged EPA to appeal the court decision by the April 16 deadline. The EPA chose not to do so and instead is developing a revised guidance. AASHTO is concerned that this revised guidance will seriously affect the delivery of highway projects in several areas of the country.

Although the EPA maintains that any adverse impacts can be addressed administratively, several issues are evident. We urge your continued oversight of this situation. After further review of its implications we may seek your assistance in a legislative remedy.

One other issue that Governor Carper referred to, and I certainly support, is the flexibility in the use of Federal funds for the use of passenger rail. AMTRAK is going to be in need of additional funds.

Senator VOINOVICH. Mr. Thompson, your time is up.

Mr. THOMPSON. Yes. Just to conclude, I had to get that last piece in, sir. AASHTO member departments are very willing and ready to help serve in the betterment of the streamlining process. Thank you.

Senator VOINOVICH. Brian Mills, commissioner, Cass County, Missouri and Chairman of the Association of Metropolitan Planning Organizations.

We are glad to have you here today and I would like to congratulate you. I think that our MPOs around the country are doing an outstanding job in really helping to facilitate for the most part, what I am getting back, projects and without their involvement I think the time period would be a whole lot more.

We appreciate your contribution to making things better.



**STATEMENT OF HON. BRIAN MILLS, COMMISSIONER, CASS COUNTY, MO, CHAIRMAN, ASSOCIATION OF METROPOLITAN PLANNING ORGANIZATIONS**

Mr. MILLS. Thank you very much, Mr. Chairman. Also, I would like to, on behalf of AASHTO—just this last month they allowed me to participate in their annual conference. So, we are working very closely with them in trying to make this process the best process for all the users of our system.

I would like to thank you, Mr. Chairman, for holding this series of hearings as we approach this first-year anniversary of TEA-21. I have submitted my detailed statement for the record explaining our concerns and suggestions with TEA-21's changes that impact the transportation planning process.

This morning I would like to spend my limited time discussing just three of those items. The first, Mr. Chairman, is that we strongly advocated TEA-21's affirmation of ISTEA and substantially increased funding levels which were made possible by ensuring that the revenues of the Highway Trust Fund would be spent for transportation purposes.

However, because of changes in the way the minimum guarantee program is administered, the record level of new funding is not evenly spread across all program categories, leaving most metropolitan areas with a disproportionately smaller increase in surface transportation program funds and with some States, no increase at all.

In three States, metropolitan areas actually saw a decrease in STP funds. This is the funding challenge that we hope can be resolved within those individual States. If not, we hope you will consider modifications to TEA-21 to ensure the increased Federal highway dollars are equitably shared with the STP program.

A fundamental goal of TEA-21 is to streamline the procedures required for moving projects from inception to implementation and construction. One component of TEA-21 streamlining is the elimination of the major investment study as a stand-alone requirement and the incorporation of similar analysis into the metropolitan transportation planning process.

TEA-21 provides an approach to remedy the problem of redundancy and duplication of efforts associated with the MIS while preserving beneficial features in the planning process. The regulations implementing TEA-21 should clearly indicate that the metropolitan transportation planning process should be the mechanism and forum for establishing the need for improvements in a corridor sub area for involving the public and stake holders at the earliest stages of planning and for assessing and narrowing the array of modal alternatives and strategies to address improvement needs and for evaluating the impact on and compatibility of the array of modal alternatives and strategies with the total metropolitan transportation system.

The results of these analysis should be recognized, accepted and used during the subsequent project level environmental reviews. We strongly support efforts to streamline the planning and project delivery process, but in doing so, we hope that the best features of the MIS are preserved in the planning process.

Mr. Chairman, I want to express our concerns regarding the recent decision by the U.S. Court of Appeals for the District of Columbia. The decision establishes new rules for making transportation conformity determinations that will make it extremely difficult, if not impossible, for many metropolitan areas to demonstrate conformity of their long range transportation plans with State air quality implementation plans.

Despite almost 10 years of experience and efforts by EPA to amend the conforming regulations which were remanded by the recent court decision, most metropolitan areas continue to struggle through a complicated, resource-intensive, and costly set of procedures that have done little to help clean the air.

Now the process will become even more difficult. In addition to eliminating the grandfathering, the Court's decision exacerbates the problems of demonstrating conformity. Under the existing regulations, there is a mismatch between the time horizons for attainment or maintenance of air quality standards in the SIP, and the 20-year time horizon required by the long range transportation plan. The time horizons in the SIP for either attainment or maintenance do not extend this far in the future.

The result of this mismatch makes the demonstration of conformity of the long range plan extremely difficult. The mobile source emissions budget for the years beyond the SIP horizon is presumed projection of mobile source emissions which can be no higher than the emission level at the same time of attainment. This puts the transportation sector at a discrete disadvantage because there is no mechanism for examining tradeoffs among mobile, area-wide and stationary sources during that period beyond attainment.

Mr. Chairman, we urge you to assess the results of this court decision and to consider adjustments to the Clean Air Act that would simplify and rationalize what has become an extremely burdensome and complicated process that adds little to protecting and improving the air.

Mr. Chairman, I want to reiterate that we believe TEA-21 provides the funding and policy tools to address the transportation challenges of our metropolitan regions. While it is still too early to adequately determine the effectiveness of TEA-21's refinements, I have offered several recommendations for implementation and we stand ready to participate and support you and your committee's oversight efforts.

Thank you for the opportunity to present the views of the Association of Metropolitan Planning Organizations.

Senator VOINOVICH. Thank you very much, Mr. Mills.

We will now hear from Jerry Alb, the director of Environmental Services, Washington State Department of Transportation.

Mr. Alb.

**STATEMENT OF JERRY ALB, DIRECTOR, ENVIRONMENTAL SERVICES, WASHINGTON STATE DEPARTMENT OF TRANSPORTATION**

Mr. ALB. Thank you, Mr. Chairman, for this opportunity to speak at the committee today and for being included in this distinguished panel. I am here to talk to you today from a customer's point of view of having to deliver this program, an environmental program

within a transportation organization that has to go through this complex process.

We think we are in the midst of a revolution in Washington State in thought and action with respect to environmental programs. Our actions are grounded in Federal law, NEPA, as well as in the Transportation Equity Act of the 21st Century. You have charged us to balance social, economic and environmental decision-making in our processes.

We think we are doing that. We think transportation can be a major force of social change in this country by cutting loose the creativity within these organizations. So when we are talking about promoting streamlining, what we are talking about is eliminating duplication, as everybody has been talking about. We are talking about ending the endless review loops that continuously go on.

But we are asking that streamlining also include a definition of creativity, unleashing the regulator and regulated to start looking at new ways of doing business within the context of these regulations.

That gets to the issue of flexibility. Flexibility, if we are going to meet the benefits that you are requiring us to take a look at, we believe that you can have cost-effective and environmentally sensitive solutions. Just as we are trying to get cost and benefit applied to transportation decisionmaking, we do not believe you need to make a choice between environmental protection and transportation safety. We think they are mutually inclusive. But in order to do that we have to be flexible in our processes.

When we talk about process we need to focus on the outcome, not the process itself. We cannot allow the process of environmental protection to kill the product of environmental protection which is clean air, clean water, habitat, and so on.

So what we are advocating is adaptive management approaches in regulations. You allow new things. You allow pilots. What I am going to show you today is a result of what we believe your intent is in TEA-21 that we would like to see adapted into the rule-making process and not go through rulemaking for the sake of re-inventing the same process or repackaging it.

We need to include this creativity. When you are talking about streamlining and flexibility you are talking about these Federal regulations. As a transportation organization, we are a linear mechanism. We have to go beyond multiple jurisdiction. So we have Federal laws. We have State laws that we have to deal with. We also have a series of local laws.

In Washington State we have 39 counties, 275 cities and 27 federally recognized tribes. When you put all these regulations together, you get one regulatory soup. The problem with this is, this lead to what I call the black hole of how. I mean, how do you make all that work?

So, the process of what we are trying to do in transportation has been supported by AASHTO and Federal Highways and EPA both have helped us with pilots. But that is on the flexibility and streamlining processes. We have been able to demonstrate that we can listen to what each agency's missions are. We can take a look at what cooperative programs need to be made between organizations. We have to commit—and this is where regulations can come

in—you can commit both the regulator and the regulated to look for cost-effective solutions that are environmentally sensitive. That is something that we have been championing in Washington State. That required us to change our approach from strictly looking at getting a permit as an agency of government—we shifted from being a permittee and looking at new ways of developing programs.

As an agency of government we have the right to sit at the table with EPA, Federal Highways and help promote change. So with that philosophical change, I want to show you how we are doing it in Washington State with flexibility and streamlining in that process.

We are committed to breaking what we call the “plan/fail” cycle where we are committing millions of dollars to planning and aquifer protection and water supplies. What we are doing is saying, to get out of the “plan/fail” cycle you must change your philosophical way of doing business.

With flexibility, we have taken a demonstration pilot project in the watershed and we have identified a geographic area where we went back and captured every single plan in an area that was done in the past. We plotted that onto a GIS map. When you click on that map you can take a look at where the bibliography information is and you can see where legitimate solutions have been made in the past. We want to incorporate that, not reinvent government. We are able to take that information and put it into tabular form and then transmit that tabular information by clicking on and putting those citizen recommendations into a GIS format where they can see what their past recommendations matched up with our existing program and we spent close to \$100 million on mitigation in Washington State in our environmental impacts.

We want to be able to show that we can connect these projects, these funding sources with projects that citizens have in these areas. By doing this we are able to match not only our funding, but the legislature in Washington State has given us 15 bills that they have passed in the last 4 years on this issue alone, that allows us to co-manage up to \$700 million of State resources in environmental programs because they listened to your call for flexibility and your call for streamlining. But that is taking it in a different way to be very creative.

So I encourage you, as you provide oversight, that you unleash the regulator and regulated to work together toward solutions of cost effectiveness and environmentally-sensitive programs. We are doing it in Washington State but that is only because they are pilots that you have allowed. We need this to become ways of doing business.

Thank you, Mr. Chairman.

Senator VOINOVICH. Thank you. I would be interested to know, who quarterbacks your process in Washington State? Is it the Director of Highways? Who is the convenor?

Mr. ALB. In Washington State our process is that the Secretary of Transportation has delegated the authority to my office and to me to manage the environmental process with the resource agencies. I sit on the Governor's Joint Natural Resource cabinet and we are able to inject TEA-21 thoughts into State legislation, showing that you are asking us to do streamlining and that we bring that

into the process. But we are actively sitting at the table with all State resource agencies.

Senator VOINOVICH. So in effect what has happened is that they have delegated it to you to quarterback it. All of the folks that are needed in terms of environmental review are kind of at your table and you are the ones driving it. Is that it?

Mr. ALB. That is correct. We work with our engineering offices and others. But then, what we do is, we take the needs of the safety components within DOT and sit down with the resource agencies and factor safety into decisions of environmental protection. When we have gone collaboratively to the State legislature with our agencies promoting cost-effective and environmentally-effective solutions, we have been funded to the tune of \$50 million over the last 5 years in our programs to implement.

But it is based on the streamlining and the philosophy of creativity. It is a revolutionary change that is coming about by legislation that you passed last year.

Senator VOINOVICH. Have you looked at the guidance paper that they put out?

Mr. ALB. Yes, sir.

Senator VOINOVICH. I would be interested in knowing—there are some concerns that Senator Baucus pointed out that he thinks that the guidance paper makes it even more complicated. Now you have been doing this pilot project. Mr. Thompson, you are talking about undertaking about eight pilot projects, is that right?

Mr. ALB. Yes.

Senator VOINOVICH. The question I've got is, if you look at that guidance does that help you or hurt you, if you had that to deal with now, and second, I would be interested in hearing from Mr. Thompson about what you think about in terms of this guidance and whether it is going to help move the process along.

Mr. ALB. One of the things that we have suggested to both EPA and Federal Highways is that when you are promoting a new regulation and you are scoping out what you are doing, you get some of the stakeholders to help prepare the issue papers.

We are reviewing instead of being participants in the process of developing. I am encouraging what we do in Washington State. You get the regulator. You get the regulated at the table to do purpose and need of the regulation. I feel like we are repackaging the old process and I would like to work with Federal Highways on their pilot programs and stick them in the research category because I am able to do flexible things under that category that I am not able to do potentially under these regulations. So I am looking for oversight to include creativity in this process.

Senator VOINOVICH. OK. So the point I am making is this: You have been through the mill and you have been doing some things and you are a pilot project. It seems to me that with your experience you ought to really be at the table to talk about whether these things are realistic or not.

Mr. ALB. Yes, sir.

Senator VOINOVICH. I think that is very, very important.

Mr. Thompson.

Mr. THOMPSON. With regard to the options paper that was created and sent out to help create the guidance, I think AASHTO is

taking a position that we really need to allow the States some flexibility. When you asked about the pilot projects, there have been some excellent examples across the country, in the State of Washington, in the State of Pennsylvania, in the State of Missouri.

Successes are bringing the agencies together. One of the problems that we are finding is that from the top down into the regions there is not consistency. If you a too complex guidance paper, we are going to have a problem of the Federal agencies imposing different levels of standards in different parts of the country.

We are asking for as much flexibility as possible. We think these projects that we are proposing, these pilots, will give the Federal agencies an opportunity to see how it works.

Senator VOINOVICH. At this stage of the game, do you feel that your input has been reflected in this guidance paper?

Mr. THOMPSON. Well, we would like to sit at the table, Mr. Chairman. AASHTO would like to be part of the process of review so that we come together. The EPA has shown some outstanding participation in being willing to sit down across the country and participate. They are willing to come to the table. We just have to make sure that when we get to the final document that we are all somewhat in agreement that it will work.

Senator VOINOVICH. Well, I am very, very interested in that. I would like you to keep me informed on a regular basis on how you think things are going. We are going to have them in here on May 20. I would really like to get into some specifics and where there are some real differences of opinion I would like to know what those differences are and how you think that—I guess at this stage of the game I would rather err on the side of flexibility than I would on—to just see how that works.

It seems to me that you want to create an environment from a regulatory point of view where you do have the flexibility and the opportunity to do innovative things.

Is any effort going to be made to share the technology that you have been using? You have that up on the screen. You have done the technology, the computers and the rest of it. That is one aspect of this that makes it easier to coordinate projects. How do you get all that technology available that helps to coordinate?

Then the second thing that I am also interested in is the technique from a managerial point of view that you use to bring the people together.

I am the former Mayor of the city of Cleveland. The town changed during the 10 years I was Mayor and people were impressed with the architecture, but I said what I was more impressed with was the civic architecture, how do you get the job done? For example, in the process do you use total quality management in getting people together?

Those kinds of things, I think are just as important. You can have flexible regulations. And you are going to get into this in your pilot. What is it that causes one project to really move ahead and another one not to move ahead? I think a lot of it has to do with how people work together and interact with each other. So many times I get complaints.

In the last panel we had here, things were not going well in the State and I thought to myself afterwards that it is not our fault

that it is not going well in the State, you haven't got your act together on the State level.

So I am real interested in those aspects. Would anybody else like to comment on that before we move on to conformity?

Mr. ALB. If I could just speak to the issue of how we are doing it, one of the factors we have tried at the beginning to participate in the development of State regulations in Washington. We were told that we were the largest developer in the State and therefore we cannot sit at the table because we were going to be getting a permit like everybody else.

When we shifted to saying that we were an agency of government, we could create tables. We put together forums and called people from across the country. We brought environmental groups and business groups together, the best brains from across the country to help us shape it. So we had the environmental groups sitting at the same table with the business groups and the contractors, and amazingly, we didn't kill each other in the process, but we started to actually talk about something. You didn't have a panel of environmentalists and a panel of transportation folks. You mixed and matched. Through that process you started getting open dialog. When we started that, we started down the path of quality management, bringing people together, creating the forums.

Then we went into the legislature on those 15 bills that I testified about, six of them were starting new programs that put DOT in partnership with the State agency in regulating environmental programs within our State.

It is a remarkable change. We had environmental groups and businesses coming to testify at the same time and supporting this. With the resource agencies flanked on my side, it confused the heck out of the legislators in our State to have all these people coming together to support this.

But it was based on common sense. How can you be against cost-effective programs that increase environmental protection? That is what we are focusing on. That is what we think the statutes need to focus on, the outcomes. We keep focusing on process. If it doesn't get to clean water, you shouldn't be doing that process, you shouldn't be doing what you are doing.

Our mitigation programs are revolutionary where we are now co-managing State funds up to \$700 million to do alternative mitigation on our sites. You are not using State funds to manage transportation commitments, but you are taking what we are spending and putting it on the Internet so citizens can see what the State is doing and it becomes citizen-friendly. This is a program that is cost-effective, environmentally-sensitive and citizen-focused.

After all, our mantra is: the taxpayers of the State of Washington expect agencies of government to work together and if they are not, there is something wrong with what we are doing.

Senator VOINOVICH. That is a great attitude. I am hoping that some of your organizations, AASHTO, for example, once this thing gets going, I am sure you have conferences on best practices and that sort of thing so this thing can be spread out around the country and people can learn from each other.

I would now like to move on to what Mr. Mills talked about in his testimony. Mr. Mills, you discussed in your testimony the mis-

match between the time horizons for attainment or maintenance of air quality standards in the SIP and the 20-year time horizon required for long range transportation plans.

Could you get into your concerns about that with me. Once you have done that I would be interested in Mr. Thompson's or anybody else's comment on that particular issue.

Mr. MILLS. I can give you a very personal example and concern because just in the last 2 weeks we have been faced with this issue in Kansas City. The heart of the Midwest had been an attainment area for years. It worked hard for clean air.

Senator VOINOVICH. You are an attainment area?

Mr. MILLS. Yes. In the Kansas City we have just recently been informed that our new long-range plan does not meet conformity by EPA. One of the reasons why is that it does not conform after the year 2010. It conforms within this 10-year horizon, but it doesn't conform in those outyears.

Senator VOINOVICH. So that I understand this, you have a regional part of the State implementation plan?

Mr. MILLS. That is correct.

Senator VOINOVICH. So you got that down. That is based on, probably, the current ambient air standards.

Mr. MILLS. Correct.

Senator VOINOVICH. With the new particulate and ozone that is going to go into effect in 2008 and 2010.

Mr. MILLS. Correct.

Senator VOINOVICH. That is what you are making reference to now?

Mr. MILLS. Correct. As you develop your long-range plan your amount of vehicle traffic, vehicle emissions, I mean that will tend to grow over a period of time. Once we actually reach those out-years, that second 10-year horizon, our plan will not conform without using reformulated gas or some other avenues.

Due to the fact that those issues are not in place at this time, we are not able, "EPA is saying your plan does not conform."

It makes it very difficult to make a transportation plan over a 20-year period and you are having to basically use current emission budget standards to conform a plan over a 20-year period and you don't have the ability to look at tradeoffs between non-stationary source emissions, look at the implementation of future things such as reformulated gas or inspection/maintenance programs, that sort of thing.

So, we are actually in a little bit of a crisis right now to where we may be shut down from being able to move several projects forward, as was mentioned by the Governor, due to this mismatch. We have a program where our TIP conforms, our SIP conforms, and we conform all the way through the year 2012 actually.

But we are going to be shut down because we cannot show conformity from 2012 to 2020.

Senator VOINOVICH. Well, when we talked to the Administrator about that she said she is going to try and work it out. I would be really interested specifically in how you think it is getting worked out. The real issue is whether this is going to be dealt with on a regulatory basis out of the EPA or is it going to require some new



legislation in order to take care of the situation. I think Senator Bond has a bill in and there are a couple of others.

Really, I think that I am interested as Chairman of this subcommittee to find out again how all of you feel about this and indeed, are we going to need legislation in order to clarify this so that we anticipate the problem in the future and we have a mechanism in place to deal with it.

Mr. Thompson, would you like to add anything?

Mr. THOMPSON. Mr. Chairman, in regard to the court decision, I believe that the court really left it open for Congress to make a decision on the direction. The States are very concerned because of the major projects. There are probably 10 or 11 projects right now that are getting caught up in the lapse. This is going to have serious effects for some period of time across the country, places like Atlanta, as an example.

I guess what we would ask for from a national standpoint is that Congress take some initiative, inasmuch as there was no appeal to the courts, the courts are looking to Congress to take some action.

Senator VOINOVICH. Well, I would like to know, from your perspective, what specific action do you think would be well-taken? I think that the perplexing thing is that we do want to have a cleaner environment. You know, I am not going to get into what I think of the new particulate NO<sub>x</sub> standards. I won't get into that. The fact is that they are there and you have to have some logical way to handle this so that once you get started that you are not going to have something shut down. You know, these are the rules. We are going to play by these. If you do that, then it is going to go forward and you don't have to worry about later on somebody coming in here. The issue is how do you get that done.

On the other hand, I think it is really important that you accommodate for it. As you say, if you have a 20-year plan and you know there are going to be highways, then you anticipate a lot more traffic and you have to weigh in the technology, you know, catalytic converters, maybe reduced sulfur in gasoline and all the other.

But you do have to compensate for it in your overall plan. I think that once you have done that and it is logical, once it is done it seems to me that you ought to be locked into it and you ought to know that you have done it and you are not going to change the rules on us and stop this. How do you reconcile all of that, to move highway projects along and at the same time respect our environmental concerns?

Mr. MILLS. One concern our organization has, on the one hand we are excited about the fact that EPA and DOT are working together in maybe trying to promulgate a solution.

However, our organization feels if there is not an amendment to TEA-21 dealing with this or the opening of the Clean Air Act, any type of agreement that is reached between DOT and EPA is still subject to litigation and lawsuits and the continued shut-down, as Senator Bond has said several times, all of this that is going on right now is doing nothing to take care of the outcome or the objective that my friend from Washington State has mentioned.

We are not improving air quality. We are spending all of our time in litigation and fighting and writing rules. And it is time that we maybe get some clean legislation that will allow us to move for-

ward with projects that are going to provide the outcomes that we are looking for, both safety, relieved congestion, improved air quality and improve the connectivity and interstate commerce and trade across this country.

Senator VOINOVICH. OK. Well, I am interested in what they are doing to deal with the problem now, to deal with those projects and to get them back on track. Then I would be interested in what is the agency suggesting to deal with the future and then get your opinion on what it is, if you don't think that is adequate, what legislation would be helpful to us so that we can get this resolved.

So it is real important that I get as much information. I will be working with Senator Bond and other members of this committee. I want to thank you very much for testifying today.

Mr. THOMPSON. Thank you, Mr. Chairman.

Senator VOINOVICH. Mr. Stowe, I have you down as the first participant. Mr. Stowe is the chairman of Transportation Programs for the American Consulting Engineers Council. One of your young colleagues last night said that I knew you were coming to testify today.

I would like to say to the panel that I would appreciate your respecting the time limit and if you try to summarize your testimony within that period of time I would be very, very grateful.

Mr. Stowe.

**STATEMENT OF TIM STOWE, CHAIRMAN, TRANSPORTATION PROGRAMS, AMERICAN CONSULTING ENGINEERS COUNCIL**

Mr. STOWE. Good morning, and thank you, Mr. Chairman. As mentioned, I am Tim Stowe. I am actually representing the American Consulting Engineers Council today where I serve as chairman of the Transportation Committee.

ACEC members are deeply involved in virtually every aspect of our nation's transportation system, designing roads, bridges, transit and rail systems and airport runway facilities in every State. Our member firms have a strong sense of environmental stewardship and public safety, regularly engineering solutions for the cleanup of superfund sites, safe drinking water and for the creation of new wetlands.

Mr. Chairman, you made reference to the chart here on my left that shows the process for developing a project. In many ways the issues before us today can be reduced to a simple question: How far have we come toward improving on this process? I wish we had more good news to report, but I'm afraid we don't. It is going to take persistence by Congress and cooperative determination among the Federal agencies to streamline this process and it is not going to come easily. This is why we are delighted the subcommittee is holding these oversight hearings. We hope this regular oversight continues until you are satisfied that the system is working as intended.

This morning I would like to offer what we believe are three pillars of a successful implementation of environmental streamlining under TEA-21. The first pillar is the need for high level agreements among the agencies. Under section 1309, as has been mentioned earlier, Congress specifies that the Secretary of Transportation shall, at the earliest possible time, identify all potential Fed-

eral agencies that have jurisdiction over environmentally-related issues and shall jointly develop established time periods for review. The Department of Transportation and these agencies are then expected to incorporate their discussions into a national memorandum of understanding.

A prompt, cooperative and national level of agreement among the agencies is a critical first step and will set the right tone for similar regional, State by State, and possibly even project level agreements.

I would like to commend the Federal Highway Administration and the Federal Transit Administration for the work they have done to engage stakeholders across the country on these issues.

While Congress expects the FHWA and FTA to take the lead on these issues, it also made clear that other agencies are to be actively involved and accountable as well.

As we approach the first anniversary of TEA-21, we believe the time has come to stress the urgency of completing this national memorandum of understanding and the follow-on agreements.

The second pillar is to avoid new steps such as pilot projects that would slow our progress toward streamlining or actually move us in the opposite direction. We have two concerns about using pilot projects. First, we believe that they would substantially delay the implementation of the law because the results of pilot projects are typically not apparent for several years. While the goal of these proposals may be laudable, pilot projects are not called for in the legislation and do not meet Congress' clear objective of streamlining and accelerating the environmental review process.

The second concern we have is that it is clear that some groups would use pilot projects to broaden the scope of section 1309 well beyond the congressional intent. The options for discussion paper circulated by the Department of Transportation describes several proposals that seem driven by a desire to update and broaden the role of the National Environmental Policy Act. However, reform of NEPA is not called for in TEA-21 and such an undertaking should be separated from the process to avoid unnecessary delays in the implementation of the new law.

Rather than sponsor an array of new pilot projects, we suggest using previous successes as benchmarks for future action. The Federal Highway Program is not new and while the project delivery process has been slow and burdensome, there have been occasional projects that have worked very well.

If we collect information on those few projects that have worked well, that have exemplified streamlining, and pattern our action plan on these examples, the American public could hope to see progress made in a matter of months rather than years.

The third pillar we feel is important to environmental streamlining is an on-going monitoring process. We feel strongly that there needs to be a well-defined measurement system in place to track our progress and establish a baseline that we can use to measure against in the future. We must first know where we are today if we hope in the next year to know whether we have improved or not.

We believe a highly-regarded independent organization using proven survey research techniques could establish a baseline

against which all future projects could be referenced. Statistically valid reports will be far more useful to the effected parties, including Congress, than anecdotal assessments of progress.

The ongoing system would be something of a poll of both project sponsors and project reviewers, most likely on a regional basis. The poll might ask sponsors if they are getting prompt responses from reviewing agencies or ask them to gauge agencies' willingness to suggest construction alternatives. The poll might ask agencies whether the information they are receiving from sponsors is thorough and accurate.

Mr. Chairman, the one thing that is missing off of our chart here is legal actions. The 8 years gets drawn out by that. We here at ACEC are keenly aware that our mutual efforts at streamlining are effected by more than just legislative and regulatory activity.

A brief word about the EPA case. We believe that the EPA, through its grandfathering rule, has been operating in good faith to balance national air quality goals with legitimate transportation needs. At this time when virtually everyone in the transportation community agrees that we must accelerate and streamline project delivery, it is ironic that this court decision would move the process in the opposite direction. It seems likely that Congress could soon address this issue. We would support Senator Bond's efforts to codify the EPA's 1993 conformity ruling which we feel honors the spirit of the Clean Air Act while recognizing the public's need for mobility.

In conclusion, in TEA-21 Congress mandated that we find ways to improve the process of delivering transportation projects without jeopardizing sound environmental policies. Our collective goal should be to make the process work better and faster. To quote the USDOT document, "Listening to America": Doing it right and doing it quickly are not necessarily at odds.

We are hopeful that the Department of Transportation will be in a position by the first anniversary of TEA-21 to report to Congress that serious progress is being made on environmental streamlining and project delivery.

We thank you for the opportunity to be here today, Mr. Chairman.

Senator VOINOVICH. Thank you very much. I have to go vote. What I would like to do, if possible, is to reconvene this hearing in 10 minutes. So, if you will excuse me, I will be back.

[Recess.]

Senator VOINOVICH. The committee will resume the hearing.

#### **STATEMENT OF ROY KIENITZ, EXECUTIVE DIRECTOR, SURFACE TRANSPORTATION POLICY PROJECT**

Mr. KIENITZ. Good morning, Mr. Chairman.

Senator VOINOVICH. Welcome back.

Mr. KIENITZ. Thank you. Once again, I am Roy Kienitz of the Surface Transportation Policy Project. Thank you for having me back again. I would like to first apologize for the fact that I am losing my voice. I hope it doesn't become a barrier.

I would also like to remind the subcommittee at least of the positive engagement of the environmental community in the process that led to the streamlining provisions in TEA-21. We worked ac-

tively with Senators Wyden and Gramm here who were the principal sponsors of that, as well as Senator Chafee and Senator Baucus in suggesting revisions to that language. I am glad to say that we were generally comfortable with the outcome there.

We have every hope of proceeding in the same spirit in the regulatory process that USDOT is engaged in now. We believe that Federal project review can be sped up for most projects while environmental protections are strengthened. That is a result, I think, that everyone here is striving for.

Before I comment on the specifics of USDOT's work on the subject so far, I would like to frame the problem a little bit. We see the projects that navigate this Federal approval process as falling into two natural categories: First, those on which a consensus has been reached locally, and second, those on which strong disagreement still exists in the area where the project is located.

We believe that Federal process reforms can be most effective in addressing the treatment of projects in the first category. There is no good reason for Federal approvals to take years if there is no major disagreement over the project being proposed. These delays are the most needless of all and, I think, the easiest to attack through procedural reforms.

The second category, however, is a little tougher. Indeed, many of the anecdotes about projects that spend years in the system are those where profound local disagreements over the wisdom of the project have not been resolved. In these cases, local governments, State and Federal environmental agencies and citizens end up having little choice but to use the full force of the law to oppose projects with major environmental or community consequences.

Efforts to reform the review process to deal with these delays, I think, are not likely to be as fruitful as in the former category. The difficulties these projects encounter tend to be matters of substance, not process, and procedural tinkering is unlikely to resolve them. I would cite the case of Washington State as an example to simply highlight two things that the gentleman said. The most important thing about what they did is that they changed their philosophy about what the purpose of the program was, to build in environmental values at the front end as projects were going into the pipeline rather than having it be a process the purpose of which is to simply do the minimum and deliver a permit.

Once that environment was created, then process reforms have been very helpful in making things much more efficient. But we see much less chance for success if you ignore the first part of the equation, the substantive part, and only concentrate on the procedural part.

I would say that contrary to some common perceptions, the environmental laws rarely prevent projects from being built. Usually they require further studies or design modifications, all of which cause delay. From an environmental point of view, in fact, sometimes the right answer might be a simple "no". But our current system is not set up to provide this. It has two available responses which are "yes, you may go ahead," or "not yet."

In this way, I think unfortunately, delay has become a surrogate sometimes for denial. I say this not because I believe that "no" is the right answer in most cases, but to help the subcommittee un-

derstand the origins of some of the absurd sounding delays that controversial projects run into.

In the struggle over a project the best an opponent can hope for is to delay things until the proponents change their minds or tire of the fight. Since it is the only option we give them, they use it.

We believe that USDOT's primary goal in its streamlining process should be to speed the delivery of the more than 90 percent of projects which are not controversial and to use its influence to make the consensus-based approach, like they are doing in Washington, the dominant approach.

For specifics, I would like to make four suggestions on the regulatory paper by USDOT. First, we hope they would do as the gentleman from the Association of Metropolitan Planning Organizations said and retain the functional elements of the major investment study process. We talked about this a little bit when I was here a few weeks ago.

We think that that process, although it does not need to be a free-standing requirement, has a lot of value and should be retained.

Second, we hope that USDOT would work to help States and MPOs cooperatively developing funding forecasts for metropolitan areas. This has been the case in some States. There are good examples of that. But in other States it has not gone so well.

Third, ISTEA and TEA-21 create a robust process for gaining input from local-elected officials in metropolitan areas but hasn't really made progress in smaller metropolitan areas and in rural areas. There are some provisions that relate to that in TEA-21 in the planning section. We would hope that USDOT would encourage the States to really involve the local officials in rural areas more directly.

Finally, with regard to implementing the National Environmental Policy Act, I would like to make sure to point out to the committee that USDOT is looking at ways to reinterpret how NEPA works. We just hope that they would remember that that legislation has two pieces, the first of which is the most commonly understood one which requires environmental review of projects, but the second one is that law states that the Federal Government should have a preference for environmentally-beneficial projects, rather than being entirely neutral. We just want to remind people that that is a law that has been on the books for 25 years and we hope would be respected.

That concludes my testimony. Thank you.

Senator VOINOVICH. Thank you.

Brian Holmes, executive secretary of the Connecticut Road Builders, American Road and Transportation Builders Association.

Mr. Holmes.

**STATEMENT OF BRIAN R. HOLMES, EXECUTIVE SECRETARY,  
CONNECTICUT ROAD BUILDERS ASSOCIATION, AMERICAN  
ROAD AND TRANSPORTATION BUILDERS ASSOCIATION**

Mr. HOLMES. Thank you, Mr. Chairman. The American Road and Transportation Builders Association has more than 5,000 members nationwide from both the public and private sectors. ARTBA rep-

resents the \$160 billion a year transportation construction here in Washington.

Our full written testimony has been submitted for the record.

We greatly appreciate the opportunity to testify before you this morning on an issue of great interest and concern to the industry: How to speed up the transportation project delivery process to better serve the public and make more efficient use of government services and tax dollars.

Congress, with the leadership from members of this subcommittee, decided to speed project delivery by including section 1309 in the Transportation Equity Act for the 21st Century. And we thank you for that. Of course, the devil is in the details which must be developed and implemented by the Department of Transportation and a number of other Federal agencies, especially those with environmental oversight responsibilities.

At the outset, I must say that ARTBA is disappointed and concerned about, though not terribly surprised, by the extremely slow pace of 1309 implementation. Almost a year has passed since TEA-21's enactment and we still have no real idea as to how the Federal agencies plan to comply with the law.

We are particularly concerned to hear that some Federal agencies are saying that section 1309 doesn't apply to them. We would welcome the word coming from this committee to the heads of the Federal environmental agencies that indeed section 1309 does apply to them and that an uncoordinated, uncooperative process is no longer acceptable, and, in fact, is no longer even legal.

We believe a significant attitude adjustment by a number of Federal agencies will be necessary to make section 1309 work. I would like to second, rather than repeat, the remarks of the gentleman from the ACEC on the need for benchmarking to gauge how well we are doing with the new coordinated process.

USDOT is required by law to safeguard the environment as part of its mission. We believe however, that some decisionmakers at the Federal environmental agencies see their mission as preventing highway improvements, particularly those designed to add capacity to meet public need.

Delay is the usual weapon of choice. It can be accomplished in an infinite variety of ways. Some of the more common ones include continually insisting on more data, failing to maintain continuity of the people who attend project meetings, and more recently, providing Federal funding to national, State and local organizations that share their anti-growth objectives and engage in grassroots lobbying activities and litigation to promote them.

The litigation that resulted in the recent appeals court decision in Environmental Defense Fund versus EPA illustrates how easy it is to exploit a project approval process that lacks inter-agency coordination and cooperation and has no set time limits for final decisionmaking.

It has been my observation that it is common practice for agencies with single issue review powers to let the NEPA run its course, sending no one having decisionmaking authority to project meetings and then ambushing the project in a later occurring single issue review. Wetlands, clean air, clean water, historic and other considerations have all been used in this way.

This has to stop. We are encouraged by the subcommittee's obvious interest in providing section 1309 oversight.

I would like to close my remarks by telling you that we believe the transportation conformity requirements of the Clean Air Act present one of the biggest challenges and obstacles to getting needed projects approved and constructed.

Conformity requirements need to be reformed. Conformity is being seriously abused in endless rounds of litigation filed across the Nation by anti-growth advocates. The EDF versus EPA decision, which struck down regulations allowing "grandfathering," is just one example.

Transportation conformity as presently configured sets a collision course between the investments anticipated by TEA-21 and the new, tighter ozone and PM<sub>2.5</sub> standards that begin to take effect next year.

Something has to change or the nation's highway improvement program will become gridlocked and the cost will be more people injured and killed on our roadways, billions of wasted hours and dollars for the American public and congestion induced dirtier air. To us, that is unacceptable.

I thank you for the opportunity to testify.

Senator VOINOVICH. Thank you.

Our last panelist is Mitch Leslie, president of the Montana Contractors Association, the Associated General Contractors of America.

**STATEMENT OF MITCH LESLIE, PRESIDENT, MONTANA CONTRACTORS' ASSOCIATION, ASSOCIATED GENERAL CONTRACTORS**

Mr. LESLIE. Good morning, Mr. Chairman. I am president of the Quality Concrete Company based in Billings, MT. I am here on behalf of the Associated General Contractors of America. I appreciate the opportunity to present this testimony on project delivery and environment streamlining.

AGC believe that the environmental streamlining provisions of TEA-21 were long overdue and in light of recent legal actions are more necessary now than they were last year. The AGC aggressively pursued the inclusion of the environmental streamlining provisions in TEA-21 that would protect the environment while expediting the environmental permitting process by requiring a coordinated environmental review process within USDOT.

According to the document on the chart on my left it takes about 8 years for planning and permitting before a project can even begin. Congress, more than 20 years ago, recognized that construction of highway projects are unnecessarily delayed.

The Federal Aid Highway Act of 1976 required the Secretary of Transportation to carry out a project to demonstrate the feasibility of reducing the time to complete a highway project. The entire 4.6 mile project was completed on August 2, 1980, merely 3 years and 7 months after the inception of the project. That is 6 years less than the average project of this size and type in that State. Had the project taken the normal time to complete, it would have cost an additional \$11 million due to inflation alone. This was a very successful experiment.



At the completion of the project, the Federal Highway Administration estimated on a national basis Federal funds of about \$64 million per year could be saved if 10 percent of all Federal aid highway projects were accelerated like that project.

It is critical that the goals of TEA-21 be realized. Everyone on the committee supported the conference report. The environmental streamlining provisions are critical to the realization of the goals of TEA-21.

In the construction industry, it is imperative that we have the equipment, manpower and a certain and predictable schedule. To build projects in Montana is difficult. Our building season is about 8 months. So getting work done in a single construction season can be pretty tough.

The uncertainties and the length of the permitting process makes it even harder to build these projects. Recent court cases have put the interests of national environmental activists ahead of the safety of motorists, specifically the decision referred to already, the Environmental Defense Fund versus EPA. That suit jeopardizes the safety of motorists. Now it is national environmental activists that have the final say on which projects can be constructed.

If that is the intent of the Clean Air Act, it has been realized. If that wasn't the intent, the intent of the statute must be clarified. FHWA estimates that over \$1 billion and 84 projects are now at stake in areas like Montana, California, North Carolina, Georgia, Idaho, Kentucky, and Tennessee because of this ruling.

Montana may have dodged the bullet on this ruling, but a final determination has not been made. Montana will hopefully soon have an approved conforming State implementation plan. Our colleagues in other States will not be so fortunate. Missouri, Georgia, Idaho, and Florida all face lawsuits attacking State and Federal approval of important highway projects.

AGC supports Senator Bond's efforts to legislatively shield the grandfather clause from further costly litigation through legislation. Senator Bond's proposal would simply codify the EPA rule that allows grandfathered projects to be built. If Congress would clarify this issue there would be little question of the legality of the EPA regulation allowing the grandfathering of projects.

In the West we are very concerned about the other threats to highway construction projects that could be mitigated by early incorporation into project decisionmaking. These threats include the application of the Endangered Species Act, the regional haze standards, and more stringent standards on particulate matter. Each stand as potential stumbling blocks to the construction projects funded by TEA-21.

AGC urges the committee to examine the impact of these threats to highway construction projects.

In conclusion, the streamlining provisions of TEA-21 were necessary. No one disputes that. Congress has been grappling for years with how best to preserve the environment while existing in it.

AGC supports the efforts of this committee to improve the process. For construction of these much-needed improvements, contractors must be able to line up the material, equipment and manpower to do the job. Streamlining the process will help us deliver

projects on time and on budget. However, failure to adequately defend the goals of TEA-21 in the face of environmental challenges will cause disruptions in project delivery that will cost the construction industry, the Government and the economy billions of dollars and thousands of lives. Thank you.

Senator VOINOVICH. Thank you very much.

One of the things that I think is important for this subcommittee that I can share with the other members of the committee—and I understand from staff that there is going to be a hearing on this issue of conformance in the court case coming up in early May so that we will have another opportunity to revisit that subject. But if you are going to do proper oversight, you talk about benchmarks, but I would like to have some baseline and say here is where we are now and a year from now how have we done in terms of making progress.

I am going to challenge the staff to come up with some kind of agreed upon basis that a year from now we can look at it and say here is where we are and here is what we have accomplished. I think that is very important. And everybody must understand what the standards are that we are going to be using in terms of the oversight.

I would be interested in any comments any of you would like to make. Mr. Kienitz, I would be really interested also in your perspective on this. Obviously, you negotiated when this 1309 came along. I would be interested in some of your thoughts on that, too, so that the concerns of the environmental community are being met.

So, any one of you can comment on that. I would appreciate it.

Mr. KIENITZ. I will start. I have to say that we actually are reasonably optimistic about this question. I think we believe that a fair amount of progress in speeding up a lot of things is possible. As I said in my testimony, I think the place where that can most rapidly be achieved, and if you want to measure it in terms of what the average time for delivery of a project is, you are going to make a lot more progress reducing the average by working on the 90 percent of projects rather than the 10 percent of projects where you have substantive disagreements.

So I think that efforts that go into that process, but also not just the environmental permitting part of that process. If you look up at that list, there is a lot of that stuff that is “prepare preliminary road plans and right-of-way plans, design and purchase of real estate.” I mean there are a whole bunch of steps in the Federal process that don’t have anything to do with environmental review. Those steps can be streamlined as well. We think equal attention should be paid to that side of the process as well as to the environmental side.

Senator VOINOVICH. Mr. Holmes.

Mr. HOLMES. It seems to me that all projects would benefit from having a streamlined process. In fact, you could even say that the projects with substantive environmental issues that arouse some controversy in the community are more in need of a clean process that works.

Senator VOINOVICH. So you think you should concentrate on both the 90 and the 10 and sometimes how do you deal with the 10 percent?

Mr. HOLMES. Well, I think one of the things that we ought to avoid is having substantive issues decided on the basis of how the procedure works. As was pointed out here this morning, some project opponents feel that delay is the only tool they have. Well, I would respectfully disagree, because ultimately you do make a decision. You get your conformity determination or you don't. You get your wetlands permit or you don't.

It would seem to me that speeding the process to the point where the decision gets made would allow it to be made on its merits instead of being put on spin dry by having an agency keep asking for more data and more data.

Senator VOINOVICH. I think that is a good point, but I think also that you do the do-able. If you have 90 percent of them and you can say you have 90 percent of the projects that can be done and you can really move on those, then you get those taken care of and then you concentrate on the ones you have some problems with.

I have had some experience. It is amazing how much you can get done when you bring people together. We had a project in Cleveland that we were involved with and I got involved. The former Governor made a promise and it was about a year and a half behind. It was amazing how we were able to get that project back on track by getting all the agencies that were involved at a table to begin with and to talk about all these things and to lay out the PERT charts and so on and continually having meetings. You know, just getting people together and getting them to cooperate with each other and to be supportive and try to be positive about some of the impediments that came along made a big difference.

The question so often is, is it the system that is the problem or is it the people who are at the table? It is observations of the Environmental Protection Agency, the differences from one region to another. So often it is interesting to see how those things work out. On the same project there is a different attitude, who are the people who are there and what are their interpersonal relationships.

That is why I said earlier that it seems to me that if there are some managerial kinds of things that seem to work, quality management, some of those kinds of things, I think they ought to be also shared with the folks on the front line who are charged with getting these things done.

Mr. Stowe, in your testimony you proposed a survey research to show how effectively streamlining processes are working. I would be interested in knowing, what do you suggest as a baseline and how would you propose to conduct this survey research and what performance measures would you look for to provide for this information?

Mr. STOWE. Yes, and I would also add that in our written testimony there are more details about the process that we propose. We have had a tremendous number of transportation successes around the country through the years that involved both the NEPA process and the Federal Aid to Highway Program.

We think it is important to take a look back through time and to determine what has made those projects successful. Is it atti-

tudes of people? Is it the spirit of cooperation? Is it a willingness to compromise, to look for innovative solutions and to arrive at a compromised result on the best way to implement a transportation project that is needed around the country.

We feel it is important to look back through time and to inventory those items that have worked well on projects throughout the whole country and identify and catalogue what has made those work well and use that as a baseline to build upon for the future development of this process.

We don't feel there is a need to reinvent the wheel. We don't need to go through pilot projects and we don't need to look at these sorts of things again. We have a well-established program that has been in place for a long time. These successes are known out there.

I had the opportunity to read a little bit last night in the Engineering News Record about a project in Louisville, KY, that went through this process in 1 year. That was because the people sat down and had a common goal to get a project accomplished on behalf of a project that would benefit the community. So it can be done.

There are examples around the country where this sort of thing has been accomplished. We feel that those successes should be built upon when identifying the program that we would move ahead with for the remainder of TEA-21.

Senator VOINOVICH. In your written testimony, you have looked at the proposed guidance for implementation?

Mr. STOWE. Yes, sir.

Senator VOINOVICH. Specifically, do you have some suggestions on how that can be improved?

Mr. STOWE. Yes, sir. We feel it is important to get input from both project sponsors, that would be the DOTs or MPOs, to see if they are receiving prompt and complete feedback from the agencies. We think it is also important that the agencies be polled as well to see if they are getting complete information from the DOTs and if they are getting the information in a format that helps them in making a decision on the project and how to proceed with the information they have been provided.

So, we feel it is important to get feedback from both sides of the project on how to proceed with the information they have been provided. So we feel it is important to get feedback from both sides of the project process in this overall program to make sure that we can move ahead and streamline this process and that all the members do have a reason to come to the table and work together and we don't have agencies pointing their finger at each other and blaming the other or waiting on the other.

Senator VOINOVICH. Is almost a year, and I don't have the background, it is new to the Senate, is 1 year to do what they have been doing—and you have made reference to that in your testimony—it has taken almost 1 year to have guidance on implementing 1309. Is that a lot of time in the Federal Government from your observation? Have they done it in a shorter period in some instances?

Mr. KIENITZ. Unfortunately, that is not at all unusual. In their defense, the one thing I would say is that they started the process with several months of simply going around the country and holding meetings in a dozen States, probably, with hundreds of people

and stakeholders asking them what they thought they should do now that this law had passed. So, I think the instinct there of, before we proposed something, let us go talk to people and see what they want, at some level was the right one. That has made the process take a little longer.

Senator VOINOVICH. Would anyone else like to comment on that?

Mr. HOLMES. I would agree that the FHWA and FTA are to be applauded for their efforts in going around the country and seeking input on this process. There is a degree of irony in what we are talking about. Here we are, almost a year into TEA-21 and the streamlining provisions have had little progress made at this point.

Senator VOINOVICH. So you think it is fair to lean on them a little bit?

Mr. LESLIE. Well, we feel that we could easily establish a baseline in the next 4 to 6 months through the issuance of surveys and through the issuance of collecting data and poll agencies and poll project sponsors and find out what has made projects successful. That data is out there and can be collected right now. We don't have to wait for that.

Senator VOINOVICH. Well, I would be interested in that. As I say, I am hoping you will come back here a year from now and I want to be able to really measure what has happened and do it in an objective way so it is not just anecdotal, somebody is complaining because something didn't get done and it is because of some rule or whatever it is.

So, I really want to work with all folks that are interested in this process to see if we can't truly make a measurable difference.

As I say, we will be having another hearing on this conformance thing, but I am very interested in that and having legislation that is meaningful if it is needed. I am of the school of thought that we ought to give the agency a chance to come back and comment on how they feel they can deal with it so we can at least examine that and from there determine whether or not legislation is needed.

You were talking about your State and you think you had a conformance problem or you do have one and it is going to be taken care of? Do you want to comment on that for me?

Mr. LESLIE. Well, our State, Montana, has developed an implementation plan. It has not been submitted, but we do believe that it will meet all the goals so we think we dodged the bullet. We are hoping so. There is a very large Federal aid project, actually right down the street from me that has been on the boards for 15 years. It is just an interchange, on and off the interstate. We are afraid that if our implementation plan does not meet the requirements that projects like that will be delayed. It has taken 15 years. We are contractors. We like to build things.

Senator VOINOVICH. Well, I understand from your Senator that you got a lot of money as a result of this and that you are going to have a hard time spending it.

But the fact is that your State implementation has not been approved, is that correct?

Mr. LESLIE. That is correct, but we believe it will be.

Senator VOINOVICH. Is anyone familiar enough with some of these projects that are hung up right now? Is it basically where States have not successfully completed their SIPs?

Mr. KIENITZ. My somewhat anecdotal knowledge on this subject indicates that a majority of the States the gentleman listed, being Montana, Kentucky, North Carolina, places like that, those are almost all situations in which there is not yet an agreement between EPA and the State about approving the plan, but the plan has been submitted and the expectation is that it will be approved. I think most people estimate that in the great majority of those cases, this conformity lapse will end sometime within the next several months and those States will go on about their business.

Atlanta is an entirely different matter. Atlanta is an area in which very few people think that there is any hope that they can put a plan together which would ever conform, both because of the projects that would be in that plan in terms of road building and because of the actions of the last 5 or 6 years which have put them into an untenable position with regard to air quality.

So I would say that that is a case of a substantive problem. These others are mostly procedural.

Mr. LESLIE. If that is the case, we would be very happy. If it is just procedural and everyone moves ahead, we are thrilled.

Senator VOINOVICH. You see, the problem I have is that States, most of them, I know I speak specifically from my State, we have 26 areas in noncompliance. We worked very, very hard. We put in emissions testing and a bunch of other stuff to comply. We only have one area left and they are about ready to get Cincinnati. So we have complied with the current standards.

But we are now involved in a new State implementation plan to reflect the new ambient air standards. That involves working with utilities. You have the ongoing situation now in the automobile industry in terms of their improvement, their technology. There is the whole issue of reducing sulfur in gasoline.

There are all kinds of things that are out there today that are being looked at. By the time you reconcile all of those things, it will be a while.

In the meantime, you have highway projects that are coming on stream that one could allege don't meet the SIP, first of all because you don't have one, and you don't know what the outcomes are going to be because of a lot more information because of the various sources of air pollution in the State. How do you deal with a situation like that—that is the thing—and not end up having more lawsuits filed that say you can't do it because you don't have the SIP done, or in the alternative, the SIP that is contemplated doesn't take into account the fact that you are building another "x" number of miles of highway in your State and you are going to add to the ambient air problem. Is that what we are talking about? Is that what people are concerned about?

Mr. LESLIE. Yes.

Senator VOINOVICH. Then the issue is how do you then reconcile that so that you don't have flags being thrown as you move along on projects, something that says, "once it is approved and it meets the specific" whatever it is, that you are off and running and you are not going to end up having somebody come back later on and say you can't do it because you are not meeting something, or at least have some mechanism that you can deal with that kind of a situation.

Well, I want to thank you for being here. I am hoping that when we have our meeting on the 20th with the Departments that you will be happy with what they are saying.

Thank you. The meeting is adjourned.

[Whereupon, at 11:42 a.m., the subcommittee adjourned, to reconvene at the call of the chair.]

[Additional statements submitted for the record follow:]

STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR FROM THE STATE OF OKLAHOMA

I thank Chairman Voinovich for holding this important hearing today. In last year's TEA-21 debate I strongly supported the streamlining and state flexibility issues. I believe it is important to get the highway dollars back to the States and put as few roadblocks as possible in their way. The Bill made a good start but I am seriously disappointed with the Administration's implementation to date.

First, we provided authority to streamline the NEPA process by requiring the coordination of the Environmental Impact Statements. I was very disturbed to learn that the Department of Transportation believed they were doing a decent job and no new regulations were required to implement a new process. If the members of the committee and the Congress had not thought that the process was broken, we would not have tried to fix it. I hope that the Administration begins to take the law more seriously and begins to implement the streamlining provisions.

Second, I am disappointed that the Administration has decided not to appeal the Conformity Decision challenging the Atlanta highway projects. At the April 15th Hearing I called for the Administration to either appeal the decision or send Congress legislative language. They failed to appeal the decision. If they fail to send legislative language to Congress, then Mr. Chairman, I am prepared to work with you on developing our own legislation. Failure for the Administration to act is irresponsible and will jeopardize highway projects around the country. If the Administration will not act, then we must.

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STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM THE STATE OF MONTANA

Thank you Mr. Chairman. I will be brief because I want to hear what our witnesses have to say.

I think most of us on the committee are concerned with the direction that the Federal Highways Administration seems to be taking in implementing the planning and environmental provisions of TEA-21. In particular, this hearing will focus on reaction to the Department's so-called "options paper" for Section 1309 of the bill.

Delivering better highways is a complicated task. But TEA-21 was drafted with the belief that the process was too complex. There was unnecessary duplication of effort. There was too much federal prescription. And as a result, there were greater delays and higher costs.

For example, prior to TEA-21, there were 23 separate factors that states had to consider in developing their transportation plans. For metropolitan planning, 15 factors had to be considered and analyzed.

Section 1309 was our attempt to streamline the environmental review and permitting process.

To identify early on the key issues, encourage early participation by all involved agencies, and establish a coordinated schedule for agency decisions and actions.

In short, we sought a simpler, more coordinated process, but—and this is an important one that did not diminish the thoroughness of the reviews or the opportunity for full public input into the decisions.

However, what the options paper suggests is a more complicated process, with additional federal requirements and less flexibility for the states. I believe that was neither the intent of Congress or the letter of the law.

I hope our witnesses today can shed more light on the flaws in the Department's approach so that they can be corrected before things are written in stone or perhaps concrete!

Mr. Chairman, let me note that the President of the Montana Contractors Association, Mitch Leslie, will be testifying on the second panel, representing the AGC.

Mitch has been very involved and helpful in Montana in ensuring that program delivery becomes a reality. I'm sure his comments today will add valuable insight to our deliberations.

Thank you.

STATEMENT OF GOVERNOR THOMAS R. CARPER, CHAIRMAN,  
NATIONAL GOVERNORS' ASSOCIATION

Good Morning. I am Governor Tom Carper from Delaware, Chairman of the National Governors' Association. I am here today to present the views of the National Governors' Association on the Transportation Equity Act for the 21st Century, TEA-21.

I would like to thank the chairman, the ranking member, and the other senators of this subcommittee for the opportunity to talk about TEA-21. I would also like to thank the chairman for his flexibility in allowing me to testify today. I was unable to testify at the last hearing on TEA-21 implementation, and I would like to start my testimony with an overall assessment of TEA-21.

The Governors believe that TEA-21 is a significant milestone in state-federal relations. The program is in its first months, but already the changes are having a positive impact. The Governors are committed to maintaining a highly effective surface transportation system. Efficient, safe, and productive road and transit infrastructure and operations provide the foundation for our nation's economic strength. They are essential for the personal mobility that is central to the American quality of life. State and local governments finance more than half of all public investment in surface transportation. In addition to their financing responsibilities, state and local governments own and operate most of the nation's surface transportation systems. That's why it's important that TEA-21 strengthened the state-federal partnership as a step towards greater efficiency.

During the two years that Congress considered reauthorization of federal highway programs, Governors established a coalition with other state and local officials, and representatives of industry and labor, named the coalition for TRUST (Transportation Revenues Used Solely for Transportation). The coalition members recognized the need for a strong multimodal surface transportation network that lowers the cost of doing business and ensures a high quality of life in our cities. Today, businesses employ just-in-time manufacturing and streamlined distribution systems to reduce the cost and time necessary to produce and distribute goods. The success of these business strategies depends on federal, state and local governments making adequate investments in transportation and delivering improvements on time.

Full and prompt implementation of TEA-21 is needed by Governors, as well as our TRUST Coalition partners to achieve the nation's high-priority surface transportation objectives. The state-federal partnership, embodied in TEA-21, must be fully and effectively implemented in accord with its provisions, taking into account national, state, and local needs, resources, and responsibilities.

TEA-21 FUNDING GUARANTEES

The nation's Governors commend Congress for restoring the integrity and reliability of the dedicated Highway Trust Fund by guaranteeing that all federal Highway Trust Fund revenues will be distributed each year for their intended purpose. TEA-21 will provide the capital needed to ensure that our transportation system meets the demands of our 21st century economy. This guarantee of funding in TEA-21 will provide states with the stability they need to better plan and manage long-term capital investments.

Although TEA-21 increases federal investment in surface transportation programs to record levels, it is predominantly funded from user revenues dedicated to the Highway Trust Fund. Congress and the administration must ensure that all revenue flowing to the Highway Trust Fund is directed to the programs established in TEA-21. Moreover, while meeting these levels, Congress and the administration must not sacrifice investments in other modes of transportation or other nontransportation programs. This approach is fully consistent with the national goal of a balanced federal budget. This increased investment will create jobs, improve productivity, and enhance our nation's competitiveness in the global economy.

Governors are also pleased with this step because at the state level we occasionally need to raise gas taxes to ensure adequate state support for roads. Over the past few years, as the federal government redirected these gas tax revenues to other programs, resistance to state gas tax increases was more likely. Now that the gas tax revenue is dedicated, it will be easier for Governors to use this source of revenues for state highway funding because taxpayers will see that their taxes are making the roads better and safer.

STATE AUTHORITY AND FLEXIBILITY IN TEA-21

State governments are central to the organization and management of transportation systems that both serve local communities and their residents and inter-



connect to create an efficient national system. TEA-21 contains several provisions that support and enhance the effectiveness of state transportation programs.

*Statewide Planning.*—TEA-21 supports the primacy of statewide planning and project selection and enables states to meet the diverse needs of urban, suburban, and rural communities. States have a long history of drawing on the expertise of the federal and local governments, metropolitan planning organizations (MPOs), and private enterprise. Under TEA-21, states are able to continue to work with these entities in delivering transportation programs to the public. Governors are hopeful that in implementing TEA-21, no regulations or guidance will distort statewide priorities or preempt state authority.

*Program Flexibility.*—TEA-21 provides each state with genuine flexibility to meet the transportation priorities of that state and its units of local government. Governors welcome this flexibility. Individual state planning processes must be used to determine the right mix of investments. The Governors commend Congress for streamlining and simplifying the process through which federal funds flow to states and urge the administration to implement TEA-21 in a manner consistent with state flexibility, without creating new suballocations or regulatory requirements. At the same time, we ask Congress to refrain from creating set-asides or new program requirements in a manner that lessens state options.

*Using Incentives to Achieve National Goals.*—The Governors strongly believe that positive incentives to encourage the achievement of national goals are more effective and productive than sanctions. They applaud Congress for providing positive incentives in TEA-21 to encourage states to increase safety belt use and reduce the incidence of impaired driving. The Governors oppose the use of sanctions and urge instead the use of federal incentives in limited instances to stimulate states to adopt national standards.

*Emphasis on Safety.*—Governors want travel to be as safe as possible. In 1997 more than 40,000 Americans lost their lives and more than 3 million Americans were injured in motor vehicle collisions. The fatality and injury rate has declined over the past two decades, but the number of deaths and injuries is still far too high. To reduce the number of deaths and injuries on the roads, the Governors supported strengthened safety programs in TEA-21. However, federal aid requirements should be simplified, and each state should be permitted to focus federal highway safety resources on its most pressing problems. In addition, Congress and the administration should not mandate additional national safety standards without state involvement and concurrence.

*Improve Project Delivery Timeliness.*—The Governors support the TEA-21 provisions that streamline and eliminate duplicative administrative processes in order to improve the timeliness and advancement of critical transportation improvements. With the need for project funding so great, it is important that we establish and maintain an efficient system to make the best possible use of these public funds. Governors hope the TEA-21 state-federal partnership becomes a premier example of federalism. The Governors stand ready to work with federal agencies to further improve and enhance the project development process.

*Invest in Rail Development.*—Across the nation, rail is increasingly being used to move both people and freight. Investments in rail mean greater access, expanded mobility, efficient movement of goods, and job creation. A vibrant rail network is essential to the maintenance of a strong economy. Without it, the United States will lack a balanced intermodal transportation system.

In some areas of the nation, rail line capacity is at or near full capacity, while in other areas, usage is still well below capacity and could be expanded. Under the Transportation Equity Act for the 21st Century (TEA-21), states will play an increasingly larger role in the development and implementation of both passenger and freight rail, including high speed rail corridors, commuter rail, intercity passenger rail, intermodal linkages, and shortline and regional freight rail development. Governors strongly support both new and revived efforts that are taking place nationwide in the development of passenger and freight rail.

The Governors support the flexibility to spend a portion of their federal transportation allocation on intercity passenger rail, if they so choose. As you know, under TEA-21 highway trust fund monies can be spent on mass transit, bus acquisition, light rail, pike paths, pedestrian walkways, technology research, snowmobile trails, intermodal freight facilities, driver education programs, hiking trails and much more. However, if a state wants to spend a portion of its transportation allocation on intercity passenger rail, it is prohibited from doing so. Including passenger rail as an eligible use of Congestion Mitigation and Air Quality (CMAQ), Surface Transportation Program (STP), National Highway System (NHS) and eligible transit funds would eliminate this bias in transportation spending.

Inclusion of passenger rail as an eligible use of TEA-21 funds would require no new spending, would not change any federal transportation formulas, and would not mandate that a state spend one penny on passenger rail service. It would however provide states with the flexibility to invest in the transportation service that best suited its needs. Simply put, this is a state flexibility and states rights issue.

#### TRANSPORTATION CONFORMITY WITH THE CLEAN AIR ACT

Many Governors are seriously concerned over the U.S. Environmental Protection Agency's (EPA) decision not to appeal a recent U.S. Court of Appeals decision that is already seriously impacting transportation projects across the country. The March 2 ruling by the U.S. Court of Appeals for the District of Columbia struck down a 1997 EPA rule that allowed certain "grandfathered" highway projects to proceed even if the region's long-term transportation plan did not comply with its clean air goals. The ruling also struck down a provision that allowed certain regionally significant non-federal projects to proceed during a conformity lapse. The flexibility that was built into those regulations was the direct result of months of work with both EPA and the U.S. Department of Transportation (DOT). Governors and other state and local officials strongly supported this flexibility which has been threatened by this ruling. The ruling could perpetuate roadway hazards by stopping or delaying highway and mass transit projects across the nation designed to reduce traffic congestion and make roads safer. We stand willing to work with both EPA and DOT on some other solution, but it took us nearly a year to achieve the rule that has been overturned.

According to the FHWA, there are 10 projects worth about \$100 million that are currently affected by the ruling, but the total could go as high as 84 projects at \$1.2 billion in value. The 10 grandfathered projects are immediately at risk because they are in areas with conformity lapse and were scheduled to receive federal approval to advance through April 1999. The other projects are in various phases of development and may be delayed in areas that fail to reestablish conformity. One problem that we currently face is that we have not been provided with any list of these additional 84 projects. I ask the committee's help in determining the complete impact of the court's decision.

With the passage of the Clean Air Act and TEA-21, Congress took steps to advance two essential national goals: achieving air quality standards and providing for the transportation needs of the American people. The Governors strongly support the attainment of both of these goals and believe that neither should be sacrificed in pursuit of the other. To meet air quality standards and provide a safe and efficient transportation system, state governments must devise workable and acceptable programs that will meet the particular needs of the nation's many diverse regions. However, states must be provided with the flexibility to meet these goals.

Effective implementation of the Clean Air Act requires taking into account emissions from all sources. It is critical that transportation and air quality decisions be made by the government leaders closest to the problem and most directly accountable to those affected. The Governors affirm their responsibility under the Clean Air Act to see that all sectors of their states work together to reach clean air standards within a reasonable time period and through appropriate means. The Governors also affirm their responsibility to see that emissions from the mobile source sector, including transportation plans, programs, and projects, do not: (1) violate clean air standards; (2) worsen existing violations; or, (3) delay timely attainment of clean air objectives. However, the Governors also believe that the conformity rules must respect the role of the Governor as the chief administrative officer of the state. The best way to support the role of Governors is to provide the flexibility to make the law work effectively in specific situations.

Thanks again for allowing me to testify today on behalf of the National Governors' Association. The Governors pledge their commitment to work with Congress and the president on these and other issues important to the nation's transportation system.

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#### FEDERAL HIGHWAY ADMINISTRATION AND FEDERAL TRANSIT ADMINISTRATION TEA-21 PLANNING AND ENVIRONMENTAL PROVISIONS: OPTIONS FOR DISCUSSION

##### PURPOSE OF THIS DOCUMENT

The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) are interested in your views on how the planning and environmental provisions of the Transportation Equity Act for the 21st Century (TEA-21) should be implemented. You may have participated in last year's extensive outreach effort on TEA-21 conducted by the U.S. Department of Transportation (U.S. DOT). In

order to focus and continue discussion by partners and stakeholders, the FHWA and FTA have summarized input from the TEA-21 outreach program in this document "TEA-21 Planning and Environmental Provisions: Options for Discussion." This document presents issues and implementation options relative to the planning and environmental provisions of TEA-21. Due to the integral relationship between transportation planning and the process for implementing the National Environmental Policy Act (NEPA), FHWA and FTA are proceeding concurrently with the updating of the NEPA regulation (23 CFR Part 771) and the issuance of a revised joint planning regulation and associated guidance. FHWA and FTA intend to issue the NPRM addressing both planning and NEPA issues over the coming year.

We welcome your comments and views on any of all issues in this document. We would also be interested in your input on which issues should be addressed in regulation and which issues should be addressed in guidance or through informational materials or technical assistance. We recognize that the document is lengthy; however, this is necessitated by the scope of issues that will be addressed in the updates to guidance and/or regulation.

If you know of others who are interested in these issues, please let them know of the availability of the document on the FHWA/FTA web site at: <http://www.fhwa.dot.gov/environment/tea21imp.htm>.

Please provide your comments and suggestions by March 15, 1999 to either Sheldon Edner, Office of Metropolitan Planning and Programs—HEP-20, Federal Highway Administration; or Charles Goodman, Office of Planning Operations—TPL, Federal Transit Administration, both at 400 Seventh St., S.W., Washington, D.C. 20590. You may also fax comments to Mr. Edner at (202) 366-7660 or Mr. Goodman at (202) 493-2478. For further information, you may reach Mr. Edner at (202) 366-4066 between 8:00 a.m. and 4:30 p.m. Monday through Friday, or Mr. Goodman at (202) 366-1944 between 7:30 a.m. and 5:00 p.m. Monday through Friday.

#### TEA-21 PLANNING AND ENVIRONMENTAL PROVISIONS:

##### OPTIONS FOR DISCUSSION

##### I. INTRODUCTION

The U.S. DOT strategic goals recognize that transportation activities represent both opportunities and challenges regarding benefits and impacts. This has led to a stronger policy thrust within the U.S. DOT and its modal administrations toward decisions that reflect a much stronger sense of environmental responsibility. Concurrent with this policy direction, the U.S. DOT seeks to foster transportation decisions that are exemplary in all ways. FHWA and FTA view the changes in TEA-21 as opportunities to improve and integrate planning and environmental processes to support more effective decision making. It is in this context that the following options for discussion have been developed.

##### A. TEA-21 Outreach

The FHWA and FTA recently completed a six-month national outreach effort, in concert with the Office of the Secretary and other modal administrations within the U.S. DOT, to hear from the public and stakeholder groups how they would like to see TEA-21 and related revisions to the environmental process implemented. The input received through the outreach effort was extensive, has been synthesized into U.S. DOT's Outreach Summary Document: *Listening to America*, and will be very helpful to FHWA and FTA in the implementation of TEA-21.

The FHWA and FTA are committed to developing guidance, regulations and informational materials to ensure early and full consideration of transportation impacts on local communities, cities, businesses, metropolitan areas and States. The FHWA and FTA will carry out this effort in a manner which provides their partners the needed flexibility to tailor transportation planning and decision making processes to State and local needs and goals.

As part of this effort the U.S. DOT will revise its National Environmental Policy Act (NEPA) implementation regulation (23 CFR Part 771, August 28, 1987) for the first time in more than a decade. This approach is designed to ensure consistency between the planning and environmental requirements and to provide timely information to stakeholders on the expectations of the U.S. DOT.

##### B. How this Document is Organized

While we are considering planning and environmental issues together, this document presents them in three parts: Planning Issues, Planning and Environmental Provisions: Cross-Cutting Issues, and National Environmental Policy Act (NEPA) Issues. It is intended to present summary information on key TEA-21 changes, pro-

vide a sense of the input received from stakeholder groups and individuals over the past six months, and to elicit input from our stakeholders on the implementation of the TEA-21 planning and environmental provisions.

## II. PLANNING ISSUES

### A. Scope of the Planning Process

#### 1. Planning Factors

TEA-21 recognized that transportation investments impact the economy, environment, and community quality of life. TEA-21 included seven factors that replace the 16 metropolitan and 23 statewide planning factors to be considered in the metropolitan and statewide planning processes. In addition, TEA-21 specifically provides that failure to consider any of these factors in transportation plans, programs or projects shall not be reviewable in court. Specifically, TEA-21 metropolitan and statewide planning processes must consider transportation projects and strategies that will:

- (a) support the economic vitality of the United States, the States and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;
- (b) increase the safety and security of the transportation system for motorized and nonmotorized users;
- (c) increase the accessibility and mobility options available to people and freight;
- (d) protect and enhance the environment, promote energy conservation, and improve quality of life;
- (e) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;
- (f) promote efficient system management and operation; and
- (g) emphasize the preservation of the existing transportation system.

*Summary of Outreach Process Comments.*—During the outreach process, there was support for the consolidation of the planning factors and stakeholders asked for flexibility to decide how to address the factors. Several participants noted that a uniform approach to addressing the seven factors would be inappropriate given the different geographic settings, economic base, and current age and condition of the transportation system in different locales.

*Alternative Approaches to Implementation.*—Under the existing metropolitan and statewide planning regulations, minimal amplifying language on the meaning and content of planning factors was provided to help MPOs and States in their application. The seven factors are very general and the decision on how to consider them rests with the MPOs and States. Thus, one approach would be to simply rely on the statutory language in TEA-21 with no additional regulatory explanation. An alternative would involve issuing guidance, informational materials, best practices illustrating alternative approaches and technical assistance to encourage planning practices that integrate consideration of these seven factors into the transportation planning and decision making process. Another option would be to include explicit language in a revised planning regulation that emphasizes the need to consider the seven factors and list specific criteria as to how this can best be accomplished.

#### 2. System Operation and Management

Operation and management of the transportation system requires greater attention in planning processes. Capital investment, especially for new capacity but also for system preservation has dominated traditional transportation planning analyses and decisions. Continuing fiscal constraint, growing sensitivity to environmental impacts of infrastructure and the need for prudent management of infrastructure all dictate a closer consideration of systems management and operational strategies as part of systems planning. As above, this could be accomplished through the development of regulations, guidance and/or technical assistance materials to assure that operations and management considerations are fully integrated into the planning process. Options for incorporating Operations and Management in the planning process could also include establishing committees of operators as task forces advising the MPO, or developing a strategy for coordinating and integrating system operations across modes and jurisdictions.

### B. Financial Issues

TEA-21 retained the basic construct of financially constrained metropolitan plans and statewide and metropolitan transportation improvement programs (STIPs/TIPs). In addition, TEA-21 calls for States and MPOs to cooperatively develop estimates of revenues in metropolitan areas for the implementation of the long-range transportation plan and for States, MPOs, and transit agencies to cooperatively develop revenue estimates for TIPs. TEA-21 also allows for the inclusion of illustrative projects in financial plans for statewide and metropolitan long-range trans-

portation plans and programs (STIP/TIP). Finally, TEA-21 requires an annual listing of federally-funded projects that have been obligated in the previous year in metropolitan areas to be made available for public review.

#### *1. Cooperative Development of Revenue Forecasts*

The development of financially constrained plans and programs is facilitated by adequate and timely information on future resource availability. TEA-21 clarifies the requirement for cooperative development by States, MPOs and transit agencies of estimated future levels of funding from local, State or Federal sources that may reasonably be expected to be available to metropolitan areas.

*Summary of Outreach Process Comments.*—During the outreach process, some stakeholders called for the establishment of an agreed upon set of procedures within each State to address issues including: how estimated future revenues may be distributed within a State, decision rules for allocating funds, and development of internal and external appeals processes to resolve disagreement among States, MPOs and transit agencies. They also suggested that language be developed, including methods to handle innovative financing strategies and specific methods to forecast the amount of future Federal funds MPOs can anticipate. Other stakeholders preferred broad flexibility in determining how revenue estimates will be developed and argued that the budgeting process and decisions on the distribution of Federal funds vary in each State and do not lend themselves to a federally-prescribed approach.

*Alternative Approaches to Implementation.*—One option would be for States, MPOs and transit agencies to tailor approaches to meeting this requirement based upon State and local needs, with an appropriate phase-in period. Given different budgeting processes in each State and differences in how transportation revenues can be used, such an approach would provide discretion to States, MPOs and transit agencies. Another option would be to develop specific criteria and procedures for meeting this requirement and to include such language in the updated planning regulations.

#### *2. Illustrative Projects*

The long-range plan in metropolitan areas must include a financial plan that demonstrates how the plan can be implemented. The financial plan must include funds expected to be available from public and private sources and any additional financing strategies needed for the implementation of the plan's projects and programs. In addition, TIPs in States and MPOs must be fiscally constrained and include only those projects or an identified phase of a project, if full funding can reasonably be anticipated to be available for the project within the time frame anticipated for project completion.

TEA-21 allows States, MPOs or transit agencies to include illustrative projects in the financial plan and this provision could provide for accelerated implementation of such projects should new, unanticipated funds become available. Illustrative projects are potential projects only, and TEA-21 does not require that they be implemented if funding becomes available. The Act requires an action by the Secretary of U.S. DOT prior to selection of illustrative projects for advancement.

*Summary of Outreach Process Comments.*—During the outreach process FHWA and ETA heard a great deal of support for permissive inclusion of illustrative projects in plans and programs. There were some concerns raised, however, about the need for coordination between States and MPOs in cases where illustrative projects are proposed to be added to metropolitan area plans or TIPs. Specifically, it was suggested that MPOs have explicit approval authority for the inclusion of such projects in metropolitan area plans and TIPs and for such proposals to ultimately advance. A number of other issues were raised such as whether illustrative projects should be considered in transportation conformity determinations and whether non federally-funded project development and other NEPA—related activities should proceed prior to approval of a project(s) in a plan or TIP.

*Alternative Approaches to Implementation.*—One approach would involve treating illustrative projects outside the fiscal constraint of transportation plans and TIPs. This would mean that illustrative projects would have no legal standing with the Federal agencies relating to funding or transportation conformity and would not be included in financially constrained transportation plans or TIPs. Under this option, once such projects are added to the financially constrained plan and STIP/TIP through formal amendment, they would be treated like all other projects with respect to transportation conformity, project development, eligibility for Federal funds, and financial constraint requirements. Thus, it would still be the financially constrained plan and TIP that are subjected to the transportation air quality conformity determination and from which federally-funded projects are advanced. Under this scenario, if illustrative projects are proposed to be added to a long-range plan

or TIP, approval by the Secretary of U.S. DOT of the STIP/TIP would be required and if the long-plan and TIP are in an air quality non-attainment or maintenance area, a new transportation conformity determination would be required.

In any options the agencies might consider, it is important that MPOs and States be mindful of the risks associated with advancing illustrative projects prior to the meeting all of the title 23 and 49 planning requirements and the conformity provisions contained in the CAA. Since the MPO's conformity determination must include regionally significant non-federal projects—as well as federal projects—advancing a State-funded illustrative project could jeopardize the MPOs conformity determination. NEPA-related project development activities would be conducted at the risk of the State and/or MPO, since the projects would not be included in the financially constrained STIP/TIP and Federal funds could not be used to advance such projects. Questions need to be answered such as when an MPO would have to take formal action on such projects, and what the respective roles of States, MPOs and transit agencies would be in the selection of illustrative projects.

### *3. Annual Listing of Projects*

TEA-21 requires that MPOs develop an annual listing of projects for which Federal funds were obligated in the previous year and to make such a listing available for public review. TEA-21 requires that the list be presented in a format consistent with the categories identified in the TIP. The purpose of this provision is to enhance public awareness of which projects are being implemented in metropolitan areas.

*Summary of Outreach Comments.*—During the outreach process, some participants recommended that States also be required to make an annual listing of federally-funded projects available to the public. Other stakeholders requested that U.S. DOT encourage the States to assist the MPOs in assembling the required list for metropolitan areas pursuant to TEA-21.

*Alternative Approaches to Implementation.*—One approach would be to provide discretion to MPOs to work with States and transit agencies to determine how best to assemble, disseminate and maintain this information. Another option would be to require that this list be developed through a public involvement process and in a user-friendly format, and that the list be made available through a range of media including, for example, the Internet. Ideas are invited and suggestions welcome for specific ways to develop, maintain, disseminate and format the required annual listing of projects.

### *C. Transportation Plan and Transportation Improvement Program (TIP)*

TEA-21 requires that each State develop a process for ensuring coordination with local elected officials in non-metropolitan areas in the development of the transportation plan and TIP. It also reaffirms that long-range plans must be developed for a minimum of a 20-year forecast period. Further, clarifying language may be needed in revised planning guidance and/or regulations related to transportation plans/TIPs and transportation conformity.

#### *1. Coordination with Local Elected Officials in Non-metropolitan areas*

TEA-21 requires that States consult with local officials on the development of transportation plans and TIPs in non-metropolitan areas and calls for States to document their consultation processes within one year of enactment. In addition, the U.S. DOT must submit a report to Congress on the effectiveness of local elected official participation in transportation planning and programming and make recommendations for improvements based on the report.

*Summary of Outreach Process Comments.*—During the outreach process it was suggested that where regional planning organizations or councils of government exist, they be considered as a possible institutional entity that States could work with to facilitate the engagement of elected officials. Others argued that existing local official consultation arrangements are adequate and appropriate.

*Alternative Approaches to Implementation.*—One option would be to allow State and local officials discretion to establish their own mechanisms for appropriate coordination and consultation. This would involve including only the statutory language in the updated rule while encouraging States to work through existing entities to facilitate the implementation of this provision. Another option would be to require the establishment of a formal forum for rural transportation planning similar to the MPO for urban planning. Either approach could be enforced as part of the required U.S. DOT “planning finding” made in conjunction with STIP approval.

#### *2. 20-Year Forecast Period in Transportation Plans*

*Alternative Approaches to Implementation.*—One option would be to simply clarify, in accordance with TEA-21, that statewide and metropolitan long-range transportation plans must be developed for a minimum 20-year forecast period. Plans are

updated every 5 years in air quality attainment areas and 3 years in nonattainment and maintenance areas. Transportation improvement programs (STIP/TIPs) in States and MPOs must be updated every two years; however, many States and MPOs update their STIP/TIPs more frequently. In some cases, this creates a situation where the Federal agencies are being asked to take action on STIP/TIPs that are based on plans that no longer cover a 20-year forecast period (e.g., a plan adopted in 1998 with a TIP amendment in 1999 would mean the plan associated with the TIP amendment would only cover a 19-year horizon, not 20-years). Another option would be to develop language that would indicate that this is acceptable provided the STIP/TIP update does not trigger a modification to the long-range plan (e.g. inclusion of a new regionally significant project).

Another option would be to provide clarification to the forecast period requirement specifically as it pertains to transportation conformity. A long-range plan could have less than a 20-year horizon if the update or the TIP amendment does not require a modification of the plan. If the TIP update or amendment proposes to add regionally significant projects which are not contained in the long-range plan for example, a plan modification as well as a conformity finding covering a full 20-year horizon period would be needed. Another option to address this issue would be to recommend that MPOs defer making significant changes to the plan/TIP until the next regularly scheduled three-year comprehensive plan update.

### 3. Transportation Conformity-Related Issues

There are several issues related to the transportation conformity requirements that could be addressed in the revised planning guidance and/or regulations. These issues relate to clarifying requirements and could lead to better integration of transportation and air quality planning, the principal objective of EPA's transportation conformity rule.

*Consistency between long-range plan update cycle and conformity determination.*—One approach would be to develop language explaining that the three-year time frame from which the transportation plan needs to be updated *starts* when the U.S. DOT (FHWA/FTA) *completes* its determination on the conformity of the plan. This clarification would help MPOs know when the three-year update is required in order to facilitate their planning activities and to ensure that they meet the transportation conformity rule requirements.

*Transportation Control Measures (TCMs) in SIPs.*—One option is to develop language clarifying that TCMs requiring Federal funding or approvals must come from a conforming, fiscally-constrained plan and TIP before those projects may be submitted to the EPA for inclusion as a SIP TCM. This language would help to ensure that TCMs meet the TEA-21 planning requirements and that they are included in plans and TIPs in metropolitan areas.

*Use of locally-based count programs vs. HPMS to track VMT for transportation conformity purposes.*—One option would be to develop language allowing areas which substitute locally-based count programs for Highway Performance Monitoring Systems (HPMS) data as their primary measure of Vehicle Miles Traveled (VMT), to also use these locally-based counts for their historical base measure of VMT. This change would help to ensure that consistent data sets are used in VMT tracking for both the base year analysis and future year comparisons. Methods for areas to demonstrate that their local programs should replace HPMS as the historical base measure of VMT would have to be identified. One option would be to have MPO's demonstrate that local information is equal to or better than HPMS. Another approach might consist of simply requiring a period of 3 consecutive years of data to validate the base.

*Definitions: TIP Amendments, Conformity Lapse, TIP extensions.*—In order to clarify ambiguous terms from ISTEA and EPA's transportation conformity rule, an option would be to add definitions to the planning regulation for: TIP Amendments, Conformity Lapse, and TIP extensions.

## III. PLANNING AND ENVIRONMENTAL PROVISIONS: CROSS-CUTTING ISSUES

This section discusses options to implementation of the cross-cutting planning and environmental provisions of TEA-21. Regulatory and non-regulatory approaches are presented that relate to planning, project development and environmental considerations affecting both the human and natural environment. Any option that might be advanced would be designed to ensure that the planning and environmental provisions of TEA-21 are coordinated and that the implementing guidance and regulations are consistent. Many of the concepts and issues discussed in this document will be coordinated with other administrations within the U.S. DOT and with other Federal agencies.

#### A. Public Involvement

TEA-21 continued the emphasis on public involvement, retained the provisions of ISTEA and added representatives of transit users and freight suppliers to the list of entities that must have an opportunity to comment on transportation plans and programs.

*Summary of Outreach Process Comments.*—Some stakeholder groups indicated strong support for inclusion of these two groups of stakeholders in the transportation planning process. Others urged MPOs and States to include representatives of these stakeholders on policy boards or commissions and made the case that voting membership is important to advancing their interests in the transportation planning and decision making processes.

State and local agencies indicated that they are considering ways to integrate the public involvement process related to plan and TIP development with the project development-related public involvement process. Several speakers noted the difficulties in getting public input on long-range plans and TIPs and the tendency for the public to be more inclined to participate in project-specific opportunities for input. They indicated that this tends to frustrate the public involvement efforts of State and MPO planners who are geared toward getting input on long-range transportation plans. Input in this area is needed as well as successful techniques and approaches to engage the public on both project-level proposals and long-range plans and TIPs.

*Background on Public Involvement.*—Under the three regulations currently applying to public involvement in transportation planning and NEPA-related activities, the FHWA and FTA do not have a completely unified approach to involving the public. The regulations are found in the ISTEA planning regulations (23 CFR Part 450 October 28, 1993), the Environmental Impact and Related Procedures Final Rule (23 CFR and 49 CFR, August 28, 1987), which includes different procedures for FHWA and FTA (formerly Urban Mass Transportation Administration) projects, and the Council of Environmental Quality NEPA Regulations (40 CFR Parts 1500–1508). In addition, and in concert with policies relating to implementation of Title VI of the Civil Rights Act of 1964 and more recently the Environmental Justice Executive Order, the FHWA and FTA planning regulations specifically call for transportation agencies to actively seek out and consider the needs of those traditionally underserved by existing transportation systems, including but not limited to low-income and minority households.

The joint FHWA/FTA planning regulations discuss public involvement principles and performance expectations for transportation planning conducted by MPOs and State DOTs. The planning regulations provide the discretion to States and MPOs on how to carry out public involvement statewide and in metropolitan regions. However, all States and MPOs are required to develop explicit public involvement procedures and to make them available for public review prior to adoption. The FHWA/FTA do not approve the procedures but review them during planning certification.

The NEPA regulation, though jointly issued by FHWA/FTA in response to the Council on Environmental Quality regulations, provides different approaches to public involvement for FHWA and FTA projects. Each agency's approach reflects specific provisions in the respective highway and transit statutes. In short, FHWA requires each State to develop NEPA public involvement/public hearing procedures incorporating FHWA requirements and approved by FHWA. The procedures then apply to all FHWA-funded projects in that State, and individual projects have specific public involvement/public hearing programs developed under the procedures. The FTA has no corresponding requirement for agency-wide public involvement procedures. For FTA-funded projects, public participation is developed on a project-by-project basis to seek public input through scoping and public hearings. Additionally, both FHWA and FTA grantees are often subject to State and local public involvement requirements.

*Alternative Approaches to Implementation—Option #1.*—A first option would be a consistent but flexible approach to public involvement for both the planning and NEPA process based on the approach currently found in the planning regulations with their public involvement principles and performance expectations. States, MPOs and transit agencies would develop public involvement procedures tailored to local circumstances for transportation planning and project development. The public involvement procedures would be subject to public review and comment prior to adoptions but not subject to approval by the FHWA/FTA.

Option #2: A second possible option would be a consistent approach to public involvement for both planning and the NEPA process based on the approach currently found in the FHWA NEPA regulations.

Option #3: A third approach might be to leave the planning public involvement approach as is and modify the NEPA regulations to make the two agencies' public



involvement approach as is and modify the NEPA regulations to make the two agencies' public involvement requirement consistent based on the FHWA approach. The result would be two flexible FHWA/FTA approaches to public involvement each tailored to local circumstances and each consistent between the two agencies.

Option #4: A fourth option might build upon one of the above and include provisions to improve public involvement for under served populations by setting particular standards or performance expectations.

(1) Would one consistent but flexible public involvement process help States and MPOs to generate public interest and involvement in their efforts?

(2) What FHWA and FTA implementation strategy would best aid States and MPOs to engage the public in transportation planning, project-development, and decision-making?

(3) What is the best approach to improve public involvement for under served communities?

#### *B. Equity, Environmental Justice and Title VI Requirements*

In recent years there has been increased attention and focus on ensuring equity, environmental justice, and Title VI compliance in the delivery of government programs. This was highlighted in February, 1994 when President Clinton signed Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations". The Executive Order requires each Federal agency to "make environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations". The Executive order reinforces Title VI of the Civil Rights Act of 1964 prohibiting discriminatory practices in programs receiving Federal funds. In addition, U.S. DOT and FHWA have each issued similar orders.

*Summary of Outreach Process Comments.*—Three sets of concerns on equity, environmental justice and Title VI were raised during the outreach process: (1) concerns relating to the process for engaging culturally diverse groups in transportation planning and decision making; (2) issues related to identification and mitigation of adverse impacts; and, (3) issues related to equitable distribution of resources resulting from transportation decisions.

With respect to shortcomings in the process to involve diverse groups, the following summarize what stakeholders said: (1) there is a need for greater stakeholder participation and public involvement in transportation decision-making; (2) strategies are needed to identify culturally diverse groups and to facilitate their involvement in transportation decisions that affect them; (3) such strategies should be implemented in collaboration with environmental justice and other community-based groups which can assist in their design and implementation; and, (4) funds should be made available to support community-based groups that assist transportation agencies implement improved outreach processes.

On issues relating to the identification and mitigation of adverse impacts, stakeholders said that: (1) success stories or case studies of model environmental justice efforts should be compiled and distributed; (2) better tools are needed in order to conduct assessments of the interactions between transportation, land use and economic disinvestment; and, (3) interagency cooperation in transportation planning needs to be promoted in order to achieve sustainable communities.

With respect to the issue of equitable distribution of transportation resources, we heard the following: (1) the TIP and Plan should prepare a spatial display of the proposed transportation investments by geographic unit (census tract, neighborhood, and council district); performance measures to assess equity impacts should be developed; (2) performance measures to assess equity impacts should be developed; (3) minority and low-income communities want an equitable share of transportation benefits; and, (4) planning certifications should not occur unless there has been a public involvement process that provides for under served communities and an equitable distribution of resources.

FHWA/FTA welcome suggestions on how to ensure consistent treatment of equity and environmental justice issues in planning and NEPA-related activities. Specific examples of how to effectively ensure that transportation agencies incorporate these considerations on a continuous basis in all planning and project development work would also be helpful.

*Alternative Approaches to Implementation—Option #1.*—As part of the planning guidance and/or regulations one approach would explicitly cite the principles of equity in the distribution of transportation resources and the tenets of the Executive Order on Environmental Justice. For example, the revised public involvement processes would reiterate that public involvement should be directed at the widest possible population, including non-English speaking and persons traditionally under

served by the transportation system with special efforts made for minority and low-income populations. In addition, this approach would promote consideration during the planning process of issues that have a direct linkage to equity, environmental justice and Title VI—Civil Rights issues.

Option #2: As part of potential revisions to the NEPA regulations and/or associated guidance, language could be incorporated which is specific to the equity and environmental justice concerns in several areas. Language could be developed to emphasize that in the consideration of alternative transportation investments, alternatives should be designed to serve the broadest population reasonable, including low-income and disabled people, through the incorporation of multi-modal elements (pedestrian, bicycle, transit and highway services) wherever feasible and possible.

### *C. Elimination of Major Investment Study as a Separate Requirement*

TEA-21 eliminates the major investment study (MIS) as a separate requirement as set forth in the planning regulations and calls for integration of the requirement into the planning and NEPA analyses, as appropriate. Over the course of the past several years instances were cited where major investment studies were said to duplicate NEPA requirements, were time consuming and costly, and importantly, that results were not usefully integrated into the project development activities under NEPA.

*Summary of Outreach Process Comments.*—The elimination of the separate MIS requirement and the streamlining of the NEPA process (see below) were the subject of considerable comment during the outreach process. Substantial support was expressed for integrating the MIS and NEPA processes and for improvements in both the NEPA and planning processes. Similarly, strong sentiment was expressed that streamlining does not mean cutting corners, circumventing or otherwise diminishing the importance of the NEPA and other environmental requirements. There were a wide range of comments and suggestions on how to integrate the MIS requirements with the planning and NEPA processes. One approach called for flexible guidance combined with strong, focused and targeted oversight. These stakeholders urged the implementation of the TEA-21 MIS provision through guidance where possible and the issuance of regulations only where statutorily required. Further, stakeholders requested that implementing guidance and/or regulation be limited to addressing specific, statutory provisions and that any temptation to add new requirements be resisted.

Another group of stakeholders made the case for the development of strong regulatory language to require the integration of the previous MIS requirement into the NEPA process be included in both updated planning and NEPA regulations. These stakeholders felt that explicit direction pursuant to Congressional intent is needed and that clarity in articulating and implementing the integration of detailed sub-regional analysis into planning and NEPA processes would be best achieved through regulation. These stakeholders made the case for a substantially enhanced planning process where project purpose and need and comprehensive analyses of alternative investments be conducted as part of planning but within the more formal NEPA process. They also argued that the analysis of cumulative and indirect impacts of transportation investments could and should be greatly improved and that analysis of induced travel, latent demand and various land use implications of investments be rigorously pursued and explicitly defined as part of both the planning and NEPA regulations.

*Alternative Approaches to Implementation.*—The following options are built around strengthening the linkage between systems planning and project development. They would facilitate broader consideration of transportation system development rather than piecemeal development of projects. Systemic grounding of project development could be achieved by: (1) strengthening the consideration of environmental goals and other broad goals in the planning process; (2) encouraging better subregional planning for complex problems; and, (3) giving greater standing to previously conducted planning analyses at the project development stage. Within this framework several options exist for establishing the key linkages.

Option #1: This option would: (1) define the role, function and scope of subregional planning analyses, (2) stress the desirability of determining purpose and need for improvements in the planning process based on consideration of environmental and other non-transportation goals, (3) rely on interagency cooperation in conducting planning analyses (e.g. including Federal and State resource and permitting agencies from the outset), (4) recognize and rely on public involvement processes, and, (5) produce appropriate documentation of decisions made during planning analyses.

This approach would be optional at the planning stage and the Federal agencies would work with States, MPOs, and transit agencies to promote the adoption and execution of approaches to improve planning. Informational materials, documenta-

tion of best practices and technical assistance would be provided to stakeholders to facilitate their planning efforts.

Option #2: Another approach would be to require that transportation plans provide a statement of purpose and need for any proposed substantial transportation investment. This statement would be included in the transportation plan for metropolitan areas prior to initiation of the NEPA process. A consideration of a range of reasonable alternatives during the NEPA process would be accomplished with an alternative chosen based upon costs, impacts, and effectiveness in satisfying the stated purpose and need. If the analysis and review of the transportation problem achieves consensus on a narrowly defined purpose and need that essentially dictates a modal response, then alternatives considered during NEPA could be correspondingly narrow focusing on location and design options. If, on the other hand, the planning process is not conducted and documented at a sufficiently robust level, then scoping may require further analysis prior to reaching consensus on which alternatives to study during the NEPA process.

Option #3: This option would entail initiation of the NEPA process early on, during planning, and would include conducting all planning analysis, development of purpose and need, development and analysis of all reasonable alternatives and all other requirements under the auspices of a formal NEPA process. In the absence of a proposed action, an environmental assessment would be conducted, at a planning level of analysis, to review the chosen range of alternative actions for their impacts. If none of the alternatives had significant impacts the remainder of the review would focus on assessing potential design and location impacts of the alternatives. A FONSI or an EIS could emerge based on the impacts identified.

Option #4: This option would rely on the MPO, the State DOT, and the transit agency(ies) to work out a well-defined, mutually acceptable approach to subregional planning and project development in a metropolitan area. The written agreement among these agencies would clearly define roles, allocate resources, and establish procedures for subregional planning and project development that are consistent with Federal policies on public involvement, environmental stewardship, and numerous others. This option would provide maximum flexibility in conforming Federal procedures to State and local requirements and processes. It would also present the greatest challenges in articulating the principles to be followed and in ensuring accountability.

In all of the above options, the intent is to faithfully implement the TEA-21 provision that exempts plans and programs from mandatory consideration under NEPA. MPOs would not be required to conduct NEPA analyses on plans. However, they could more effectively utilize the analyses conducted during planning activities to facilitate compliance with NEPA requirements at a project level. If a planning process chose to conduct a NEPA analysis on a plan, this would be a permissible, voluntary decision.

(1) Should a State DOT or transit agency be able to advance a project, on which there has been no MPO planning activity, through project development to the point of final approval without earlier mandatory consultation with the MPO? Project sponsors might benefit from MPO consultation which could result in reduced delays and costs and an improved system context for project development. Should there be a requirement for early MPO consultation or endorsement? What would be the best approach to enhance the linkage between planning and project development in this regard?

(2) Which of these approaches would best respond to Congressional intent while eliminating the factors that generated cost, redundancy, and duplication of effort?

(3) A key decision for an MIS effort was whether a problem was "major" and, hence, warranted such a study. Is some sense of scale (complexity of issues, costs of alternatives, etc.) helpful in determining when the planning process would be assisted by an enhanced analytical effort?

(4) Should there be a requirement that the formal statement of "Purpose and Need" for a project be adopted, concurred in, or in some way officially accepted by the MPO prior to the initiation of the project development process that addresses that purpose and need?

(5) Are other options possible? If so what are they?

#### *D. Cumulative and Indirect Effects*

The Council on Environmental Quality (CEQ) placed renewed emphasis on the evaluation of cumulative and indirect effects of Federal actions with the publication of its 1997 guidance on this subject. Some examples of these effects in the transportation arena include the water quality impact of numerous losses of very small wetland areas, the community disruption of secondary development associated with a transportation improvement, the flooding impact of the loss of absorbing vegetation

and permeable surface area associated with multiple transportation improvements and secondary development, and wildlife habitat fragmentation.

*Alternative Approaches to Implementation.*—Cumulative and indirect effects are most conducive to consideration and evaluation at a regional or large subregional scale rather than on a project-by-project basis. In metropolitan areas, the former MIS requirement provided an opportunity for appropriate consideration of such effects across a subregional area where major, multiple transportation actions might be needed. With the elimination of the separate MIS requirement, the most logical venue for the consideration of such effects may be in the systems planning process that supports the development of the metropolitan or statewide transportation plan. Among the seven planning factors that must be considered are the protection and enhancement of the environment and the improvement of the quality of life, factors that encompass cumulative and indirect effects.

Option #1: One approach to implementation would require an appropriate evaluation of these effects in a regional or subregional analysis, thus obviating the need for repetitious, project-by-project review. Such an approach might also provide an opportunity for more effective and efficient mitigation of cumulative impacts and the enhancement of adversely affected resources. For example, plans for wetlands banking, for participation in watershed/flood plain management activities, or for a role in the preservation of open space or farmland might be developed in response to the planning-level analysis of cumulative impacts of multiple proposed transportation actions. Certain transportation projects such as those funded with Transportation Enhancement funds, (e.g. the provision of bicycle or pedestrian facilities) might be considered as positively affecting the community or environment in ways other than obvious mobility benefits. A planning-level consideration of cumulative and indirect effects that allows credit to be taken for enhancement projects might encourage the inclusion of such projects to counterbalance the adverse effects of other projects.

Option #2: Another possibility would be an approach whereby the NEPA project reviews would assess whether to rely on the planning analysis of cumulative and indirect effects to satisfy the CEQ requirement for such consideration. In the absence of a robust planning-level review of these impacts, the project-by-project review as part of the each NEPA evaluation would be needed to satisfy CEQ.

#### IV. NEPA ISSUES

##### A. Introduction

FHWA and FTA are considering the need to respond to a number of issues in the NEPA area, some of which relate closely to those just discussed above as cross-cutting issues. Clearly the agencies have a responsibility to implement the NEPA related provisions of TEA-21 in an appropriate manner. Most prominent among these provisions is Section 1309, Environmental Streamlining, which sets forth a coordinated interagency process for advancing major highway and transit projects. Section B below outlines some options for addressing new environmental streamlining responsibilities.

TEA-21 also contains references to NEPA in a number of other provisions. Because differing interpretations of the legislative meaning of each provision is possible, FHWA and FTA are evaluating an appropriate regulatory and/or guidance response to each. Section C presents options for addressing these NEPA related provisions.

In addition to changes mandated by TEA-21 provisions, FHWA and FTA see the need to continuously improve their administration of NEPA. In the 12 years since the FHWA and FTA NEPA regulation was issued (23 CFR 771, August 28, 1987), the nature of the highway and transit programs has evolved as has understanding of effective environmental analysis, prevention and integration of adverse environmental impacts, agency and public coordination, and project development practices. FHWA and FTA are evaluating the need to modify the NEPA regulation and to issue complementary guidance and best practices. Section D presents options for doing this.

##### B. Environmental Streamlining

Section 1309 of TEA-21 establishes a process intended to coordinate Federal agency involvement in major highway and transit projects with the goals of identifying decision points and potential conflicts as early as possible, integrating the NEPA process as early as possible, encouraging the full and early participation of all relevant agencies, and establishing coordinated time schedules for agencies to act on a project. The environmental streamlining provision: (1) provides the U.S. DOT the option of entering into memoranda of understanding (MOUs) or memoranda of agreements (MOAs) with Federal or State agencies; (2) establishes a dispute resolu-

tion process; (3) allows States the option of including their environmental reviews in the coordinated environmental review process; and (4) authorizes the U.S. DOT to approve State DOT requests to reimburse Federal agencies for expenses associated with meeting expedited time frames.

*Summary of Outreach Process Comments.*—Most parties understood the environmental streamlining provisions to be a call for more timely review and decision making, but without any reduction of substantive environmental protections. Views differed considerably on how binding these provisions should be on other Federal agencies: some read the provision as directing other agencies to participate in the coordinated review process, while others interpreted it as providing exceptions which in effect gave environmental agencies the option to participate or not, at their discretion. Most recognized the need for close coordination at the national level between the U.S. DOT and other agencies so that the field units of all agencies operate from a common understanding of the law. National MOUs were generally viewed as appropriate in this regard. Multi-state, State, or project-level agreements were also viewed as a possibility. Some parties voiced concern about the operational difficulty of establishing hard and fast time frames for coordination, while others viewed this as a central benefit of the environmental streamlining provision. Dispute resolution processes were viewed by some as being essential, while others see them as so cumbersome so as to defeat their streamlining purpose. Finally, some parties recommended that the U.S. DOT interpret the Federal agency reimbursement provision broadly to give States essentially unlimited flexibility, while others argued for a narrow application of this authority to projects requiring expedited reviews.

In each of the following areas, options and approaches to address issues raised through the environmental streamlining provisions are briefly discussed. As with the other concepts and options presented in this document, suggestions and input on approaches are welcome.

#### *1. Memoranda of Understanding/Memoranda of Agreement*

FHWA and FTA have discussed the Environmental Streamlining provisions with representatives of other Federal agencies at the headquarters and field levels to begin building a common understanding of the provision and a coordinated implementation strategy. High level contact between cabinet level of officials is a strong possibility, with either bilateral or multi-lateral MOUs/MOAs resulting from this contact. FHWA and FTA are also evaluating the desirability of developing model MOUs/MOAs for implementation at a sub-national level. Another option would be to disseminate agreements reached in one area with other areas that are contemplating the development of similar agreements. FHWA and FTA are also evaluating their experience in developing and using NEPA/404 merger agreements for insights into how best to use interagency agreements in implementing environmental streamlining.

#### *2. Enhanced Scoping and Lead Agency Role*

Experience has shown that many of the conflicts which delay Federal approvals of highway and transit projects are somewhat predictable and might be better anticipated and managed by using the scoping process as an early warning system. In addition, the development of interest-based negotiating and collaborative problem solving skills can help to creatively craft implementable solutions. One option to implementation might include an approach to complex projects where agencies agree upon review schedules only after sufficient information on issues has emerged to allow them to gauge the required level of effort for their respective agency. Another approach might make the scoping process, (as part of an aggressive, high visibility project management role by FHWA or FTA as the lead Federal agency), a mechanism for identifying the issues, and agreeing on roles, time frames, and methodologies associated with advancing the project. The evaluation of regulatory language and/or guidance is underway to identify ways to enhance scoping efforts and the overall effectiveness of the FHWA/FTA as lead agency.

#### *3. Pilot Efforts*

One effective mechanism for testing and evaluating change is to engage in pilot efforts. In the environmental streamlining area there are several options for types of pilot efforts. One type of possible pilot effort, "NEPA Reinvention Pilots" might include partnerships between FHWA and/or FTA and State DOTs, MPOs, and/or transit agencies to evaluate and enhance how NEPA is factored into transportation decision making. The focus would normally be on the project development process and how State and local project location and design decisions can be better integrated with Federal NEPA responsibilities. Nevertheless, an alternative approach might allow, at the non-Federal partners' option, the NEPA Reinvention pilots to

encompass enhanced consideration of environmental factors in planning, with the goal of minimizing reevaluation of planning decisions during subsequent project development phases.

Another option for pilot efforts might be environmental streamlining pilot projects. These might consist of partnerships between FHWA and/or FTA, non-Federal transportation partners, and environmental resource and permitting agencies to test environmental streamlining concepts on specific projects. The goal of these projects would be to assure the full engagement of all relevant agencies at the appropriate points in the process and to test and evaluate different approaches for arriving at environmentally responsible transportation decisions in the most timely fashion possible. FHWA and FTA will be assessing options regarding the potential number and type of pilot efforts and possible criteria for selection in the coming months.

#### *4. Reimbursement of Federal Agency Expenses*

The inability of environmental resource and permitting agencies to fully engage in the transportation decision making process at the most appropriate point has historically been a major obstacle to achieving the ideal of a fully integrated environmental review process. The agency reimbursement language in the environmental streamlining provisions of TEA-21 offers an opportunity to partially overcome this obstacle. TEA-21 includes specific conditions relating to agency reimbursement: expenses to be reimbursed are limited to those additional expenses needed to meet expedited time schedules. In addition, other statutory authorities exist for agency reimbursement and FHWA and FTA are exploring the full range of options for reimbursing agencies under any of the appropriate authorities. Furthermore, approaches to developing collaborative efforts with other Federal agencies are being explored in order to develop model reimbursement agreements and to facilitate the implementation of such agreements by Federal agency field staff.

#### *C. Other NEPA Related Provisions of TEA-21*

As described below, TEA-21 contained a number of separate provisions that relate to NEPA. The TEA-21 outreach process revealed differing interpretations of some provisions. In the interest of clarity, FHWA and FTA are considering options and possible implementation approaches in each area.

##### *1. Contracting for Engineering and Design Services*

Section 1205 allows a State to procure under a single contract the services of a consultant to prepare environmental documents for a project as well as subsequent final engineering and design work on the project if the State conducts a review assessing the objectivity of the environmental documentation.

*Summary of Outreach Process Comments.*—Some parties were concerned about the potential for conflict of interest—that a consultant doing environmental (NEPA) work would be motivated to provide information that would be biased toward proceeding with the follow-on design work. They therefore argued for a well documented analysis by the State of the objectivity of the environmental documentation. Others noted that such a review of objectivity is inherent in a well managed and publicly open NEPA process, and that separate documentation was unnecessary.

Experience has shown that, although on many projects consultants do prepare the bulk of the detailed analyses and NEPA documentation, this process involves close oversight by the State or local public agency and by the lead Federal agency. It is the ongoing responsibility of the FHWA and FTA to ensure that all consultant work reflected in the NEPA process and documentation meets basic standards of objectivity and professionalism. One option might be to retain the current approach to oversight and not require new, separate documentation as evidence of the objectivity of the consultants' work. Another approach would be to add regulatory language requiring separate documentation be prepared by States or local public agencies in order to ensure the objectivity of consultants' work.

##### *2. Design-Build Contracting*

Section 1307 of TEA-21 permits a State or local transportation agency to award a design-build contract during project development provided that final design shall not commence before the NEPA process has been completed.

*Summary of Outreach Process Comments.*—Several comments suggested that design-build should not be used on complex and controversial projects because public agencies needed to be in a position to modify the proposal at all phases of project development to fully address environmental concerns. Others suggested that design-build procurements should not be initiated until after the NEPA process had been concluded, at which point the specifics of the location and design decision would be known. Another point of view which was presented argued that having a design-

builder on board at the earliest possible time was actually environmentally beneficial, since they could contribute valuable input in a timely way, to arrive at implementable and cost-effective recommendations.

FHWA and FTA are concerned about design-build contracts for federal-aid projects being let before the NEPA process has been completed. To do so could give the appearance that the State or local transportation agency is fully committed to a single course of action and that the NEPA process is simply a clearance exercise and not a true decision making process. There may; however, be some situations in which design-build procurements can be structured to allow for the design-builders to work on any alternative emerging from the NEPA process. FHWA and FTA recognize that the emerging interest in design-build contracting may warrant specific regulatory language or guidance addressing the relationship between design-build procurement and NEPA and will be developing options and possible approaches to implementing this TEA-21 provision.

### *3. Real Property Acquisition and Corridor Preservation*

Section 1301 of TEA-21 allows the value of land acquired by a State or local government without Federal assistance to be credited to the State share of a federally-assisted project which uses that land, provided that several conditions are met. These conditions include: that the land acquisition will not influence the environmental assessment of the project, including the need to construct the project, the consideration of alternatives, and the selection of a specific location.

*Summary of Outreach Process Comments.*—Some parties expressed the view that purchase of land is inherently a commitment to a particular project location and that it therefore would invariably influence the assessment of the project under NEPA. This might be mitigated through purchase of land on multiple alignments or purchase of options rather than outright acquisition. Others view land acquisition as environmentally neutral, in that unused land can be disposed of, often at a profit. Some readers of TEA-21 interpreted this section to also allow for acquisition of entire transportation corridors in advance of NEPA approval using Federal-aid funds. Several commenters suggested that this provision should only apply to land purchased before a State or local government contemplates using Federal-aid funds for construction, while others felt that the timing of the land acquisition should be immaterial.

FHWA is considering under an NPRM covering "Right-of-Way Program Administration" published for comment in the December 24, 1998 Federal Register, an "early acquisition" policy to accommodate the acquisition of land (including "at risk" activities) by State or local agencies that may be deemed necessary while NEPA considerations are being concluded. Interested parties should refer to the December 24, 1998 NPRM.

### *D. Revisions to the 1987 NEPA Regulation and Associated Guidance*

Despite far ranging consideration of environmental issues in the legislative process, TEA-21 is not a comprehensive approach to NEPA issues. While the environmental streamlining provision and the other NEPA related provisions touch on a number of NEPA questions, there are many more which FHWA and FTA have encountered during their management of the program since the NEPA regulation was last issued in 1987. The U.S. DOT has progressed considerably in its treatment of the environment since 1987 and has recently adopted as one of its five strategic goals the protection and enhancement of communities and the natural environment. Translating this strategic direction into day-to-day operations requires that appropriate changes be made to regulations and operating guidance. Possible approaches and options under consideration are outlined below.

*Summary of Outreach Process Comments.*—While U.S. DOT focused our outreach activities on implementation of TEA-21 provisions, comments were also solicited on how to improve management of the program in general, including areas that were not changed in TEA-21. In the NEPA area, some responses emphasized the need for greater flexibility, including the suggestion that regulatory language be pared back and permissive guidance expanded. In particular, some parties suggested that FHWA and FTA revise the NEPA regulation to remove duplication of items adequately covered in the CEQ regulation. Several suggestions related to establishing minimum performance expectations in the NEPA regulation, rather than procedural requirements. A number of parties suggested that issuance of regulations was too slow a process to respond to real world needs for adaptation of approach.

On the other hand, other commenters considered it more important to have clear process requirements which were known to all stakeholders, not just transportation agencies. They suggested that the notice and comment process of rulemaking was a valuable means for obtaining public input prior to finalization and that codifica-

tion in Federal regulation made the resulting product accessible to widest possible audience. Finally they suggested that given the litigation exposure of NEPA related approvals, FHWA and FTA would minimize their litigation risk by having important issues fully covered in regulation.

Some commenters suggested that FHWA and FTA need to better emphasize the core environmental values of Section 101 of NEPA rather than focusing strictly on the procedural requirements of Section 102 of NEPA. They suggested that fewer conflicts would result if transportation agencies gave the same priority in decision making to the environmental implications of a transportation proposal as they did to engineering and cost considerations.

Several parties suggested that the FHWA and FTA approach to NEPA needed to offer an enhanced approach to the consideration of alternatives, so that non-traditional solutions such as demand and system management approaches and partial build solutions could receive more serious consideration. They suggested that this would require a corresponding rethinking of how the agencies approach the statement of purpose and need.

Other commenters underscored the need for more visible and objective management of the NEPA process by FHWA and FTA staff. A major concern expressed was that FHWA and FTA officials tended to be advocates of State and local transportation proposals, rather than unbiased stewards of the variety of Federal interests embodied in Federal transportation and environmental law. This was perceived as contributing to a loss of credibility in the NEPA process, with attendant conflict resulting. Others believed that weak FHWA and FTA management of the NEPA process as lead Federal agencies caused decisions to be delayed pending protracted resolution of interagency issues.

A number of parties expressed concern that the public would be excluded from critical decisions if environmental resource and permitting agencies became more involved in the earlier stages of the NEPA process and concurred in certain elements of the project, such as purpose and need and the range of alternatives. They argued for effective public involvement opportunities at all stages of transportation planning and project development.

In addition to the TEA-21 outreach effort, FHWA and FTA have utilized other venues to obtain feedback on how to improve the administration of NEPA. Of principal importance was the NEPA 25th Anniversary Workshop. Participants included a diverse group of governmental and non-governmental individuals representing transportation, community, and natural environmental interests. The resulting blueprint document underscores the need for a fundamentally new approach to NEPA, one that emphasizes strong environmental policy, collaborative problem solving approaches involving all levels of government and the public, and integrated and streamlined coordination and decision making processes.

#### *1. Applicability of the NEPA Regulation to Other DOT Modes*

In 1993 the U.S. DOT National Performance Review effort recommended that the NEPA procedures of the various modes be blended into a single process. Efforts to accomplish this were purposely delayed until after passage of the surface transportation reauthorization which became TEA-21. Recent discussions within the U.S. DOT are pointing toward a dual effort, one of which would cover the entire department, the other of which would cover just FHWA, FTA, and potentially the high speed rail program of the Federal Railroad Administration (FRA).

The first approach would update the U.S. DOT Order on NEPA to reflect a department-wide statement of environmental policy and to remove barriers to collaboration between U.S. DOT modes on NEPA issues. One option would be to provide authority for one U.S. DOT agency to use the procedures of another U.S. DOT agency or to act as agent for another U.S. DOT agency when a situation warrants this approach.

A second approach is to explore the expansion of the FHWA and FTA NEPA regulation to include high speed rail. While FRA has principal program authority for high speed rail, FRA and FHWA often serve as joint lead agencies on high speed rail corridors, with FHWA field staff often providing day-to-day oversight of Federal NEPA responsibilities. FHWA also must give approvals relating to crossings of Interstate highways or use of Interstate rights-of-way by high speed rail lines. At their terminals, high speed rail often must interconnect with urban mass transit systems. Given the intermodal partnership between FRA, FHWA, and FTA on high speed rail proposals, there may be advantages to broadening the applicability of the FHWA and FTA NEPA regulations and associated guidance to also include FRA's high speed rail responsibilities.



## *2. Statement of Environmental Policy*

FHWA and FTA recognize the merit of clarifying the Federal responsibility inherent in the granting of NEPA approvals. One option would be for the agencies to communicate a clear message that FHWA and FTA view NEPA responsibilities as being more than just about informed decision making and that they include an affirmative duty to only approve transportation proposals which represent responsible stewardship of community and natural environmental resources. As part of such an articulation of environmental policy under this approach, FHWA and FTA could expand upon earlier statements concerning the use of Federal funds for mitigation and enhancement measures.

## *3. Lead Agency Responsibilities*

FHWA and FTA are considering approaches to environmental stewardship that would more strongly communicate to agency staff and to its partners that they have a collective responsibility to use the NEPA process as more than a way of granting FHWA and FTA approvals. Such a communication could indicate that the NEPA process must also be the mechanism for addressing issues associated with obtaining permits, approvals, statutorily required reviews, and land transfers from other Federal agencies. As such, FHWA and FTA could articulate their obligation to meet the reasonable needs of those agencies for information and analysis in a form and at a time which allows those partner agencies to meet their statutory responsibilities.

One option might be to clarify the independent nature of the Federal NEPA decision, especially when State and local governments or private entities engage in "at risk" activities which create an appearance of commitment of the Federal government to a particular course of action. As principal steward of the NEPA process, the lead Federal agency has a responsibility to ensure that the nature of commitments are fully disclosed.

In a related vein, another possible approach would reaffirm that the FHWA/FTA role, as lead Federal agency (FHWA or FTA), will be to manage the process to ensure that Federal NEPA decisions pay appropriate deference to State and local decisions made in good faith without intent of forcing a particular Federal decision. The degree of deference might vary, with greater deference paid to State and local decisions which considered a broad range of factors and which were made with the advice of appropriate Federal agencies.

## *4. Scoping and Early Coordination*

FHWA and FTA experience has revealed that scoping and early coordination efforts can set the tone, positive or negative, for all subsequent project activities. It is therefore critically important that they be carried out as effectively as possible. Approaches are being explored which would establish enhanced performance expectations for scoping and early coordination efforts and FHWA and FTA invite suggestions on how they might appropriately scale such performance expectations to the different classes of action (EIS, EA, or CE).

## *5. Purpose and Need and Evaluation of Alternatives*

As discussed in the previous section under MIS integration, the establishment of purpose and need and the broad scale evaluation of alternatives is often most appropriately accomplished during the planning process. Nevertheless, at the project level there is a need to either build on the results of the regional or sub-regional planning process or to address issues of purpose and need and evaluation of alternatives from scratch if the planning process has not addressed them.

A continuing challenge regarding purpose and need is how to frame the purpose and need so that they are neither too narrow nor too broad. If too narrowly conceived, purpose and need point to an overly small set of possible solutions; too broadly constructed, they point to an unmanageably large set of alternatives. Options to provide clearer direction regarding what constitutes an acceptable statement of purpose and need are being explored and FHWA and FTA invite specific suggestions on this issue.

A particularly troubling issue relating to evaluation of alternatives is what to do with alternatives which do not fully meet purpose and need, but which partially satisfy purpose and need at substantially lower cost, time of implementation, and impact. Current NEPA practice is to eliminate from further consideration as "unreasonable" any alternative which does not fully meet purpose and need. One approach would be to establish a policy by which such an alternative could be selected through the NEPA process based on a finding that the cost, time, and impact savings justify accepting lower than desired levels of transportation service.

#### *6. Categorical Exclusions*

Additions to the list of projects which may be eligible for categorical exclusions are possible options and are currently being evaluated. Possible additions might include transportation enhancement projects, certain bicycle and pedestrian projects, especially those oriented around improving safety for bicyclists and pedestrians, wetland and upland habitat bank projects, and certain projects eligible for Congestion Mitigation and Air Quality Improvement Program funding including transportation demand management projects such as vanpool programs, bicycle stations, and services at existing transit or transportation centers designed to reduce single-occupant vehicle travel. In addition, FHWA and FTA are exploring the need to be evaluated as a whole if they have a net effect that may warrant further environmental analysis (e.g. ITS projects throughout a corridor).

#### *7. Environmental Assessments and Environmental Impact Statements*

FHWA and FTA are evaluating the desirability of incorporating by reference relevant sections of the CEQ regulation in lieu of the procedural requirements currently in the FHWA and FTA NEPA regulation. Amplifying specific direction could be addressed in accompanying guidance.

#### *8. Limitations on Actions*

One option might be to clarify that the FHWA and FTA cannot prevent State and local governments and private entities from taking actions that are "at risk" such as final design or land acquisition prior to NEPA approval. Further, it may help to clarify that FHWA and FTA will not finance such "at risk" actions and will not base their decisions on the actions taken by others. Another option would be to maintain the status quo. For projects that will be federally funded, the present regulation prohibits final design and land acquisition (with certain limited exceptions) prior to the completion of the NEPA process. The enforcement of this prohibition has been confounded by the fact that specific funding sources, especially for smaller projects, are often not identified until late in project development. Maintaining the current prohibition could help to ensure the integrity of the NEPA process which mandates the consideration of impacts and alternatives prior to commitment of a particular course of action.

#### *9. Programmatic approaches*

An approach may be needed to explicitly recognize the appropriateness of programmatic approaches to NEPA compliance for categorical exclusions for limited types of projects. Programmatic approaches have proved to be efficient ways of meeting the NEPA requirements in uncomplicated and noncontroversial situations. If such an approach were advanced, programmatic approaches to meeting the NEPA requirements which would not directly involve project level Federal approvals would be subject to periodic process reviews to ensure that they are being properly applied. This would enable the Federal agencies to focus limited resources on more problematic project-level decisions and to maintain a quality control role for projects with beneficial or de minimis environmental impacts.

#### *10. Section 4(f)*

FHWA and FTA are evaluating the option of separating the NEPA regulation from the Section 4(f) requirements, which are oriented toward preservation of parklands, public park and recreation lands, wildlife and waterfowl refugees, and historic sites. Given the scope of Section 4(f) issues, and in recognition of the need to issue revisions to the NEPA regulation in an expedited manner, a separate Rule-making of Section 4(f) rule may be desirable.

#### *11. Transportation Conformity*

There may be a need to explain and clarify the point during the NEPA process at which a conformity finding on the plan and TIP must be made before proceeding with NEPA approvals. Previously FHWA maintained that conformity must be made at the time that preliminary engineering is programmed for NEPA development. Subsequently, proposed guidance suggested that conformity should be demonstrated before the final NEPA approval (i.e. approval of CE, FONSI, or FEIS). Such a clarification could ensure that conformity is demonstrated for the most likely project scenario before the NEPA process is completed for such project.

STATEMENT OF CHARLES THOMPSON, SECRETARY, WISCONSIN DEPARTMENT OF  
TRANSPORTATION; CHAIRMAN, STANDING COMMITTEE ON ENVIRONMENT OF THE  
AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS

Mr. Chairman, my name is Charles Thompson, I am Secretary of the Wisconsin Department of Transportation and the Chairman of the AASHTO Standing Committee on the Environment. I'm here today first of all to thank you on behalf of the state transportation officials across the country for the vision and foresight you have shown through the enactment of the Transportation Equity Act for the 21st Century (TEA-21).

In only a few short weeks we will celebrate the first anniversary of the signing of TEA-21 and I can tell you that the record levels of funding you have made available are being put to use in Wisconsin and in every state to improve the safety, efficiency, and mobility of your constituents. And every bit as important as the 40 percent increase in highway and transit investments, is the firewall you put in place to guarantee that the revenue motorists pay into the Highway Trust Fund is fully used for the transportation improvements they expect us to provide.

We at AASHTO recognize that you will face tough decisions this year as you work on appropriations legislation, but let me emphasize that the protection and the preservation of the firewalls you created in TEA-21 is as important to the future of our transportation system as the creation of the Highway Trust Fund was when the Interstate system was first envisioned. It is your contribution to the economic prosperity and vitality for generations to come.

My purpose this morning is to discuss with you the need to make those transportation dollars work in the way that you envisioned through simplifying and streamlining our project delivery process. There is no question that we at the state level share with the same intensity your desire to protect and improve the quality of our nation's environment. We are working daily to deliver transportation services that maximize mobility with minimal disruption of natural and human resources. We want our transportation projects to be in the forefront of sound environmental practice, not because it's a federal mandate, but because it's the right thing to do, and because it benefits the communities we all share. We also want to be able to deliver the transportation projects which people have a right to expect in a timely manner, unencumbered by overlapping and redundant regulation.

This issue was a major focus of AASHTO's activities during the discussions of TEA-21, and we met with your staff to discuss possible options.

In the Conference report accompanying TEA-21, Congress made clear that it was not satisfied with "the delays, unnecessary duplication of effort, and added costs often associated with current practices for review and approving surface transportation projects."

You listened to our concerns when you drafted TEA-21 and acted in several ways to streamline and simplify these project planning processes. We are now at the point to use a common phrase "where the rubber meets the road." The Federal Highway Administration and the Federal Transit Administration are preparing to write the regulations to implement the statute that you created, and we are concerned that those regulations reflect your intention to simplify and to streamline, while maintaining the integrity of the environmental laws.

We are urging that the federal approach reflect three basic principles:

- Federal agency guidance should rely on the language of the statute, rather than embellish that language with regulation. States need the maximum flexibility possible to implement the law in their own way because what works well in Wisconsin may not work at all in Arizona.

- When regulations are required by law, they should be developed through partnering with the states, the MPOs, and the stakeholders who must implement them and they should be permissive rather than restrictive, to allow the flexibility needed for creative solutions.

- The balance in planning and programming authority between federal, state, MPO, local and other implementing agencies established in the Intermodal Surface Transportation Efficiency Act (ISTEA) should be continued and maintained.

We hope that these principles would serve as a guide as well for the implementation of the TEA-21 streamlining provisions. The planning factors required for state transportation plans were reduced from 23 to 7, and for metropolitan planning the factors were again consolidated from 15 down to 7. Your message was clear—make it simple, make it work.

Congress decided to eliminate the Major Investment Studies (MIS) as a stand alone requirement. We don't want to see federal agencies resurrect it by regulatory fiat. We at AASHTO urge that the states be allowed to develop their own approaches regarding how to achieve the goals of the MIS.

## COORDINATED ENVIRONMENTAL REVIEWS

A particularly critical element of streamlining is the opportunity that has been provided in Section 1309 of TEA-21 to coordinate the environmental review processes of federal agencies. Transportation projects undergo a rigorous environmental review under the provisions of the National Environmental Protection Act (NEPA). Many require the preparation of Environmental Impact Statements. But once that hurdle has been cleared, still more await in the sequential reviews of other agencies.

Layer upon layer of federal reviews and oversight that have accumulated over time have created a process that literally takes years to complete. Let me cite some examples:

In my own state of Wisconsin, the Stillwater Bridge Project has been under review since 1985 and is still at a standstill because of conflicting federal agency decisions. After it was approved by the Federal Highway Administration, the National Park Service, the Minnesota and the Wisconsin Departments of Transportation invested \$14 million for right-of-way acquisition and other implementing costs. Yet the future of the bridge is still uncertain because of subsequent agency proposed rulemaking for Wild and Scenic Rivers. The National Park Service and the Advisory Council on Historic Preservation have conflicting demands on whether to take out or retain the bridge.

The Florida Department of Transportation has been attempting to widen a 20.4 mile stretch of US-1 between Key Largo and Florida City for the last 30 years. The project is needed to improve traffic safety on the route which has a very high accident and fatality rate. It is also needed for purposes of hurricane evacuation, as well as improved traffic flow, and navigation.

The Final Environmental Impact Statement was completed in March of 1992. Federal Highway Administration approvals were given in 1992. Wetlands mitigation was completed in 1995. But the federal permitting process from the U.S. Army Corps of Engineers has been underway for five years. A supplemental Environmental Impact Statement is now being demanded, to which the state and the FHWA object. The project is at a standstill.

Another example is the Route 6 improvement project in Connecticut. Since planning for this project began in the 1960's, more than 180 different alternatives have been considered while different federal agencies have made conflicting findings about the environmental impacts.

In TEA-21 you have called upon the Secretary of Transportation to develop a concurrent process so that federal agencies are brought in at the outset during the scoping process to review projects simultaneously. This change was vitally needed, but federal agencies are slow to change and reluctant to surrender their prerogatives. The change will come about only with your continued oversight and encouragement.

AASHTO urges the U.S. DOT to develop as soon as possible a nationwide, coordinated Memorandum of Understanding regarding streamlining that would be signed by all federal agencies with approval or review authority over surface transportation projects. The State highway and transportation departments who implement the Federal highway and transit programs need to be involved in this process. AASHTO is concerned that in the FHWA and FTA paper titled "TEA-21 Planning and Environmental Provisions: Options for Discussion", there is no discussion of State involvement. State DOTs would like to work with the DOT in the development of such an agreement. A copy of AASHTO's comments to the FHWA and FTA on the Options Paper is provided.

The MOU should provide for reasonable but prompt deadlines for completion of reviews and decisions by Federal agencies. To the extent any other Federal agency does not meet its deadline, U.S. DOT should promptly intervene to conclude the review process as soon as possible.

The MOU should ensure that decision-making should occur at the lowest responsible level in each agency and in a timely manner. Those closest to the issues should be empowered to make the decisions. When disputes arise, they should be moved up the channels of review quickly. Once a dispute is resolved the agreement should be honored by all involved agencies as projects advance.

The U.S. DOT and other Federal agencies should cooperate to ensure that their regulations are consistent and complimentary, and that redundancy is removed. Some examples of the redundant regulations under which we now operate include Section 106 of the National Historic Preservation Act and Section (4f) of the U.S. DOT Act, and Section 404 of the Clean Water Act and Executive Order 11990.

In addition to the national level cooperative agreement, U.S. DOT should go still farther to allow the States to include approaches such as partnering, MOUs and

general permits with other federal agencies to improve coordination and shorten the environmental review and permitting process. We do not propose any shift in responsibilities among the federal agencies and where states already have existing processes, which are working well, they should be allowed to continue.

We would urge that the U.S. DOT develop an outreach and training program including shared decision-making, team building, and conflict resolution for the coordinated environmental review process.

Yet another opportunity provided in TEA-21 for expediting the project review process allows states in extraordinary circumstances to provide funding to federal agencies for the staff work needed for accelerating the review. We at the state level recognize that manpower is needed to make things happen, and we are willing to do our part. In order to help states take advantage of this provision, we would urge the DOT to develop a model agreement to be used to implement this opportunity in the near future.

Let me turn from the way things ought to be to the way things are, and to point with pride to some very important initiatives already in place in state departments of transportation.

We have been very encouraged by the spirit of cooperation that has been evident in recent meetings AASHTO has held with the Federal Highway Administration and the Environmental Protection Agency to discuss ways to work together as organizations. On February 24, we were proud to brief the agencies on three outstanding examples of transportation projects that have met and surpassed environmental requirements in an efficient and timely manner, through the collaboration of transportation and environmental partners. These projects are located in Washington State, Missouri, and Pennsylvania.

The Washington DOT project involved a joint effort of the state transportation agency with EPA's Region 10 office. The project involved capacity building to incorporate the watershed approach and early environmental permitting into the decision-making for transportation planning and project development. The project demonstrates what can be achieved through such a cooperative process between transportation and environmental officials.

The second project dealt with cooperative transportation and environmental efforts for the Ozark Mountain Highway, U.S. 119, in Branson, Missouri. The third project dealt with several initiatives of the Pennsylvania Department of Transportation, including the development of a "Collaborative Decision-Making Toolbox" for projects, which also demonstrated the possibilities in a cooperative transportation and environmental process.

These projects clearly identified what can be achieved through early involvement of reviewing agencies, the application of better science, and the application of better methods of environmental mitigation. The most impressive fact is that in every case the projects went beyond mere compliance with statutes to develop better solutions for the community, and it was done in a shorter time frame to bring those solutions to the public.

Another issue that came out of that discussion was the desire of all three agencies to develop what we are calling Environmental Vanguard Initiatives, which are transportation projects that will demonstrate the art of the possible in environmental streamlining. At its meeting on April 18 in Little Rock, the AASHTO Board of Directors approved a proposal for AASHTO to work with the U.S. DOT and EPA to identify and support eight to 10 such projects around the country and we will meet soon with the federal agencies for further discussions. The goal of this effort will be to collaborate in the development of new approaches and share the benefits realized throughout the transportation and environmental communities.

As yet another example of our own desire within AASHTO to promote the best in environmental practices we are launching our own Best Environmental Practices competition to highlight outstanding examples of state DOTs working in partnership with other agencies or organizations to produce transportation projects that improve both the mobility and the environment of their communities. Under this proposal, each of the four AASHTO regions will have a competition during their summer meetings for best State DOT environmental practices. The winner from each of the four AASHTO regions will then compete at the AASHTO Annual Meeting to be held October 1-5 in Tulsa, Oklahoma. The eight best practices identified during this competition would then be incorporated into a report of best practices that AASHTO would distribute to the transportation and environmental communities. We will provide copies of this report to the committee when they are available.

## GRANDFATHER RULING OF CONCERN

Mr. Chairman, I do want to comment on one other area of concern to AASHTO and its member departments, the solution to which may have to come from your committee. As you know, on March 2 the U.S. Court of Appeals for the District of Columbia Circuit issued a decision that overturned several provisions in the third set of "conformity" amendments developed by EPA, including so-called "grandfathering" provision. Both you and AASHTO urged EPA to appeal the Court decision by the April 16 deadline. EPA chose not to do so, and instead is developing revised guidance.

AASHTO is concerned that this revised guidance will seriously affect the delivery of highway projects in several areas of the country. Although the EPA maintains that any adverse impacts can be addressed administratively, several issues are problematic. One is the determination of when a federal highway project is considered to be "funded" which is the measure whereby EPA would determine if additional conformity analysis would be required before a project could proceed.

Under the EPA guidance, AASHTO is concerned that the definition of a "funded" highway project will halt completion of certain key highway project segments. In addition to potential safety implications, this guidance could ironically result in poorer air quality in some parts of the country. In Georgia, for example, construction of a remaining highway segment in an overall highway project will be stopped. This will result in a two-lane section of highway tying into improved four lane segments on either side. Public safety problems will likely occur on either end of this segment when traffic must merge from four lanes into two lanes. This will result in traffic back-ups of idling cars rather than the free-flowing traffic that would be provided if the four lane segment had been constructed. This will result in "hot spots" of worsened air quality.

We urge your continued oversight of this situation, and after further review of its implications, we may seek your assistance in a legislative remedy.

In summary, AASHTO looks forward to assisting in the prompt implementation of the streamlining of the environmental and permitting process. We believe it can achieve the development of safe, cost-effective, and environmentally sound transportation solutions rather than projects designed to fit a succession of independent and sometimes redundant regulatory requirements. We encourage communication, co-ordination, shared solutions, elimination of redundant requirements, and overall process improvements. AASHTO member departments stand ready to assist the U.S. DOT in this important undertaking.

Mr. Chairman, this concludes my remarks. We will be pleased to respond to questions now or in writing.

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AMERICAN ASSOCIATION OF STATE HIGHWAY  
AND TRANSPORTATION OFFICIALS,  
*Washington, DC., April 27, 1999.*

KENNETH WYKLE, *Administrator,*  
*Federal Highway Administration,*  
*Washington, D.C.*

GORDON LINTON, *Administrator,*  
*Federal Transit Administration,*  
*Washington, D.C.*

DEAR ADMINISTRATORS WYKLE AND LINTON: We are writing to submit the enclosed AASHTO comments regarding the February 10 FHWA and FTA paper titled "TEA-21 Planning and Environmental Provisions: Options for Discussion". The AASHTO Board of Directors approved these comments at its April 18 meeting in Little Rock.

We want to thank you for agreeing to our request to extend the deadline for comments so that we could take the draft AASHTO response before the Board and then submit official comments. We also want to thank you for the meeting held with your staff on April 8 to discuss the "Options" paper issues. We believe that the April 8 meeting provided a good forum for discussion of the issues and AASHTO concerns.

In submitting our comments, we want to reiterate four key overriding principles regarding TEA-21 implementation that were approved by the AASHTO Board of Directors in Concept Papers submitted to the U.S. DOT TEA-21 docket on November 18, 1998. These four overriding principles include:

- It was the clear intent of Congress to simplify (not complicate), streamline, and improve the efficiency of the surface transportation programs, including the project delivery process while maintaining substantive environmental protections. The public has a right to expect that the significantly increased funds made available for

transportation investment be delivered promptly in the form of plans and projects. State DOTs, MPOs and other implementing agencies should be provided the maximum flexibility allowed by statute.

- USDOT should not promulgate or continue regulations unless required by statute, and instead should allow States, MPOs and other implementing agencies to determine how best to operate in those areas not clearly governed by Federal statutory jurisdiction by regulation where it has not been established by statute. Where USDOT considers additional guidance desirable, there should be a partnering effort in developing a non-binding approach, including best management practices or case studies based on actual practice in individual States.

- TEA-21 should continue the balance (in terms of transportation planning and programming authority) among Federal, State, MPO, local, and other implementing agencies that was established in ISTEA. In passing TEA-21, Congress has already considered and rejected a variety of proposals to change the existing balance between States and their political subdivisions. Under the current balance, there is and will continue to be, extensive and inclusive participation by the public and careful consideration given to social, economic, and environmental factors.

- When the development of regulations is required by statute, the USDOT should promote permissive rather than mandatory language to the maximum extent allowable. This provides the optimal opportunity for States, MPOs and other implementing agencies to adapt requirements and processes to better address local conditions and concerns.

Some of the key AASHTO comments regarding the issues presented in the "Options" paper, as provided in the attached response, include the following:

1. *Planning Factors.*—For the seven planning factors, USDOT should simply rely on the statutory language in TEA-21 with no additional regulatory language.

2. *Cooperative development of revenue forecasts/Illustrative projects.*—States, MPOs and transit agencies should be provided flexibility to meet this requirement based on State and local needs. Flexibility is needed to allow State DOTs and MPOs to develop an approach to illustrative projects. State DOTs should have the flexibility to replace a delayed project with another project with another project that has NEPA approval.

3. *Coordination with Local Elected Officials in Non-metropolitan areas.*—Congress extensively debated this issue during the passage of TEA-21. Allowing state and local elected officials to develop their own mechanism for consultation with affected local officials is the only alternative permissible under Section 1204(f) of TEA-21.

4. *Options touching on the Distribution of Resources.*—Some of the options discussed in the FHWA/FTA paper would result in directing state level funding allocations, even though such allocations are not required by statute. AASHTO believes that it is inappropriate for USDOT to consider such options, which are beyond the statutory language of TEA-21.

5. *MIS/Purpose and Need/Cumulative and Indirect Effects.*—AASHTO does not support any of the options regarding MIS. AASHTO urges FHWA and FTA to implement the statutory requirement to eliminate MIS as a separate requirement. The principles of MIS that are not already addressed by other Federal regulations and statutes should be integrated, as appropriate, into the metropolitan transportation planning and programming requirements of Section 450, series 300.

AASHTO observes that all of the FHWA/FTA options take NEPA analysis into the planning process. That should not be done except on a voluntary basis. AASHTO opposes the language that would "require" that transportation plans provide a statement of purpose and need. With regard to "cumulative and indirect effects", AASHTO supports the optional approach in the second option to the more prescriptive approach in the first option.

6. *Memorandum of Understanding/Memorandum of Agreement.*—AASHTO urges USDOT to move forward with the Memorandum of Understanding/Memorandum of Agreement provision in Section 1309 of TEA-21. AASHTO urges that one MOU/MOA with input and review by AASHTO be signed by all Federal agencies.

This should be a principle-based MOU/MOA with stated goals and intent as related to streamlining. Such goals and intent should include a commitment to: (1) finding and eliminating conflicting or incompatible regulations and agency procedures; (2) omitting redundancy and steps that do not add value to the process; (3) providing timely review and decision making and a single public interest finding under NEPA; and (4) providing clear and consistent guidance. USDOT should take the lead in ensuring that the principles in the MOU/MOA are carried out.

7. *Pilot Projects.*—AASHTO recommends pilot projects in (1) the areas of programmatic approaches and delegation of federal review and approval for non-major actions, e.g. 404 permit, NPDES, 106, etc. to the State DOTs and/or State environmental resource agencies and (2) pilot projects to investigate new methodologies

that lead to a single public interest decision to satisfy multiple agency requirements and expedited approval. Pilot efforts need to help move toward greater flexibility for the States and resource agencies in making changes to the process.

8. *Statement of Environmental Policy*.—AASHTO strongly opposes the part of the “Statement of Environmental Policy” which says that “FHWA and FTA view NEPA responsibilities as being more than just about informed decision making and that they include an affirmative duty to only approve transportation proposals which represent responsible stewardship of community and natural environmental resources.” Congress, in passing TEA-21, indicated an expectation that the process would move in the direction of environmental streamlining. This option creates a new, substantive, ill-defined requirement and moves in the opposite direction. As AASHTO member departments are practicing responsible stewardship of these resources today, the concern with this option concerns its Federal regulatory implications.

9. *Section 4(f) and Section 106*.—AASHTO supports combining Section 4(f) and Section 106, and the elimination of requirements for dual documents.

While the issues listed above are of special concern to AASHTO, we urge a close reading and your careful consideration of all topics referenced in the AASHTO comments.

Also, we recommend that FHWA and FTA convene a joint meeting with AASHTO, AMPO and APTA representatives to discuss these issues. These three organizations represent the agencies that have principal responsibility for implementing the items covered in the “Options” paper.

We appreciate the opportunity to comment on the “Options” paper and for the cooperation of your staff in meeting to discuss the various issues covered in the paper. We look forward to continuing to work with you and your staff on this and other parts of the TEA-21 implementation process.

Sincerely,

DAN FLOWERS,  
*President.*



AASHTO Response to the February 10, 1999 FHWA/FTA Document Titled: "TEA-21 Planning and Environmental Provisions: Options for Discussion"

"Options Paper" Page #	Section Title	FHWA/FTA Proposed "Options"	AASHTO Comments
2	Planning Factors	<ol style="list-style-type: none"> <li>1. Simply rely on the statutory language in TEA-21 with no additional regulatory language</li> <li>2. Issues guidance, informational materials, best practices illustrating alternative approaches and technical assistance to encourage planning practices that integrate consideration of the seven factors into the transportation planning and decision-making process</li> <li>3. Include explicit language in a revised planning regulation that emphasizes the need to consider the seven factors and to list specific criteria as to how this can best be accomplished</li> </ol>	<ol style="list-style-type: none"> <li>1. AASHTO strongly supports this option.*</li> <li>2. This option would be acceptable if it deleted reference to guidance, but retained the issuance of best practices, informational materials and technical assistance for the States to consider in a flexible manner. Guidance is opposed because of the concern that it could be issued in a prescriptive, non-flexible manner. TEA-21 provides that the seven planning factors are not challengeable in court. This option goes beyond the statutory language.</li> <li>3. AASHTO strongly opposes this option. It goes beyond the TEA-21 legislation by developing specific criteria related to the planning factors. It potentially reopens issues already resolved by the Congress.</li> </ol>
2 & 3	Systems Operation and Management	<ol style="list-style-type: none"> <li>1. One option is to develop regulations, guidance and/or technical assistance materials to assure that operations and management considerations are fully integrated into the planning process</li> <li>2. A second option for incorporating operations and management into the planning process could also include establishing committees of operators as task forces advising the MPO, or developing a strategy for coordinating and integrating system operations across modes and jurisdictions</li> </ol>	<ol style="list-style-type: none"> <li>1. AASHTO supports relying on the statutory language of TEA-21 with regard to systems operation and management, and strongly opposes the development of guidance or regulations. AASHTO supports collection and distribution of examples of best practices in the systems operation and management area.*</li> <li>2. System Operations and Maintenance is one of the seven planning factors. It should not be separated out for additional weighting. This goes beyond the statutory language.</li> </ol>
3	Cooperative development of revenue forecasts	<ol style="list-style-type: none"> <li>1. One option would be for States, MPOs and transit agencies to tailor approaches to meeting this requirement based upon State and local needs, with an appropriate phase in period</li> <li>2. Another option would be to develop specific criteria and procedures for meeting this requirement and to include such language in the updated planning regulations</li> </ol>	<ol style="list-style-type: none"> <li>1. AASHTO supports this flexible approach, <i>which would allow informal agreements, more formal agreements, or any other approach that can be worked out in the State without Federal prescription.</i></li> <li>2. AASHTO opposes this option because it is a prescriptive regulatory approach that does not allow States, MPOs and transit agencies to tailor an approach that best fits its area.</li> </ol>

4 & 5	Illustrative Projects	<p>1. One option would involve treating illustrative projects outside the fiscal constraint of transportation plans and TIPs. This would mean illustrative projects would have no legal standing with the Federal agencies relating to funding transportation conformity and would not be included in financially constrained transportation plans or TIPs</p>	<p>1. AASHTO is concerned that FHWA/FTA are being too restrictive in this section in defining a “constrained” plan. AASHTO’s position is that State DOTs can move forward and get NEPA approval. State DOTs should have the flexibility to replace a project, and have a project with NEPA approval to substitute for a delayed project. Flexibility is needed to allow State DOTs and MPOs to develop an approach to handle illustrative projects.</p>
5	Annual Listing of Projects	<p>1. One option is to provide discretion to MPOs to work with the States and transit agencies to determine how best to assemble, disseminate and maintain this information</p> <p>2. Another option would be to require that this list be developed through a public involvement process and in a user-friendly format, and that the list be made available through a range of media including, for example, the Internet</p>	<p>1. AASHTO supports this flexible approach, <i>but believes that FHWA and FTA should be required to produce this information and provide it to the MPOs and States.</i></p> <p>2. AASHTO opposes this option because it proposes an inflexible, prescriptive process.</p>
5 & 6	Coordination with Local Elected Officials in Nonmetropolitan areas	<p>1. One option would be to allow State and local officials discretion to establish their own mechanisms for appropriate coordination and consultation. This would involve including only statutory language in the updated rule while encouraging States to work through existing entities to facilitate the implementation of this provision</p> <p>2. Another option would be to require the establishment of a formal forum for rural transportation planning similar to the MPO for urban planning</p>	<p>1. Congress extensively debated this option during the passage of TEA-21. Allowing State and local elected officials to develop their own mechanism for consultation with affected local officials (Option 1) is the only alternative permissible under Section 1204(f). The law further stipulates that “the Secretary shall not review or approve such process.” Any action by the Secretary on this issue beyond the required study and report in Section 1204(j) is unlawful.</p> <p>2. AASHTO strongly opposes this option. 23USC135(f)(1)(B)(i) as enacted in Section 1204 of TEA-21 states that the Secretary shall not review or approve this process. Contrary to that language, this option would specify how States coordinate with local officials.</p>

AASHTO Response to the February 10, 1999 FHWA/FTA Document Titled: "TEA-21 Planning and Environmental Provisions: Options for Discussion"—Continued

"Options Paper" Page #	Section Title	FHWA/FTA Proposed "Options"	AASHTO Comments
6	20-year Forecast Period in Transportation Plans	<ol style="list-style-type: none"> <li>1. One option would be to simply clarify, in accordance with TEA-21, that statewide and metropolitan long-range transportation plans must be developed for a minimum 20-year forecast period. Plans are updated every 5 years in air quality attainment areas and 3 years in nonattainment and maintenance areas. Transportation improvement programs (STIP/TIPs) in States and MPOs must be updated every two years; however, many States and MPOs update their STIP/TIPs more frequently. In some cases, this creates a situation where the Federal agencies are being asked to take action on STIP/TIPs that are based on plans that no longer cover a 20-year forecast period (e.g., a plan adopted in 1998 with a TIP amendment in 1999 would mean the plan associated with the TIP amendment would only cover a 19-year horizon, not 20-years)</li> <li>2. Another option would be to develop language that would indicate that this is acceptable provided the STIP/TIP update does not trigger a modification to the long-range plan (e.g., inclusion of a new regionally significant project).</li> <li>3. A third option is to provide clarification to the forecast period requirement specifically as it pertains to transportation conformity. A long-range plan could have less than a 20-year horizon if the update or the TIP amendment does not require a modification of the plan. If the TIP update or amendment proposes to add regionally significant projects which are not contained in the long-range plan, for example, a plan modification as well as a conformity finding covering a full 20-year horizon period would be needed.</li> </ol>	AASHTO does not support any of the four options identified under the "20-year Forecast Period in Transportation Plans" section. AASHTO supports 20 years from the adoption of the plan.*

6 & 7	Consistency between long-range plan update cycle and conformity determination	<p>4. A fourth option to address this issue would be to recommend that MPOs defer making significant changes to the plan/TIP until the next regularly scheduled 3-year comprehensive plan update.</p> <p>1. One option would be to develop language explaining that the 3-year time frame from which the transportation plan needs to be updated starts when the U.S. DOT (FHWA/FTA) completes its determination on the conformity of the plan. This clarification would help MPOs know when the 3-year update is required in order to facilitate their planning activities and to ensure that they meet the transportation conformity rule requirements</p> <p>1. One option is to develop language clarifying that TCMs requiring Federal funding or approvals must come from a conforming, fiscally-constrained plan and TIP before those projects may be submitted to the EPA for inclusion as a SIP TCM. This language would help to ensure that TCMs meet the TEA-21 planning requirements and that they are included in plans and TIPs in metropolitan areas</p> <p>1. One option would be to develop language allowing areas which substitute locally-based count programs for Highway Performance Monitoring Systems (HPMS) data as their primary measure of Vehicle Miles Traveled (VMT), to also use these locally-based counts for their historical base measure of VMT. This change would help to ensure that consistent data sets are used in VMT tracking for both the base year analysis and future year comparisons. Methods for areas to demonstrate that their local programs should replace HPMS as the historical base measure of VMT would have to be identified</p> <p>2. A second option would be to have MPOs demonstrate that local information is equal to or better than HPMS.</p> <p>3. A third approach might consist of simply requiring a period of 3 consecutive years of data to validate the base</p>	AASHTO supports the options as described.		<p>1. The choice between locally-based count programs vs. HPMS should be left to State DOTs, air quality agencies and MPOs through the consultative process.*</p> <p>2. The choice between using locally-based count programs vs. HPMS should be left to State DOTs, air quality agencies, and MPOs through the consultative process.*</p>
7	Transportation Control Measures (TCMs) in SIPs	<p>1. One option would be to develop language allowing areas which substitute locally-based count programs for Highway Performance Monitoring Systems (HPMS) data as their primary measure of Vehicle Miles Traveled (VMT), to also use these locally-based counts for their historical base measure of VMT. This change would help to ensure that consistent data sets are used in VMT tracking for both the base year analysis and future year comparisons. Methods for areas to demonstrate that their local programs should replace HPMS as the historical base measure of VMT would have to be identified</p> <p>2. A second option would be to have MPOs demonstrate that local information is equal to or better than HPMS.</p> <p>3. A third approach might consist of simply requiring a period of 3 consecutive years of data to validate the base</p>	AASHTO supports the options as described.		<p>1. The choice between locally-based count programs vs. HPMS should be left to State DOTs, air quality agencies and MPOs through the consultative process.*</p> <p>2. The choice between using locally-based count programs vs. HPMS should be left to State DOTs, air quality agencies, and MPOs through the consultative process.*</p>
	Use of locally-based count programs vs. HPMS to track VMT for transportation conformity purposes	<p>1. One option would be to develop language allowing areas which substitute locally-based count programs for Highway Performance Monitoring Systems (HPMS) data as their primary measure of Vehicle Miles Traveled (VMT), to also use these locally-based counts for their historical base measure of VMT. This change would help to ensure that consistent data sets are used in VMT tracking for both the base year analysis and future year comparisons. Methods for areas to demonstrate that their local programs should replace HPMS as the historical base measure of VMT would have to be identified</p> <p>2. A second option would be to have MPOs demonstrate that local information is equal to or better than HPMS.</p> <p>3. A third approach might consist of simply requiring a period of 3 consecutive years of data to validate the base</p>	AASHTO supports the options as described.		<p>1. The choice between locally-based count programs vs. HPMS should be left to State DOTs, air quality agencies and MPOs through the consultative process.*</p> <p>2. The choice between using locally-based count programs vs. HPMS should be left to State DOTs, air quality agencies, and MPOs through the consultative process.*</p>

AASHTO Response to the February 10, 1999 FHWA/FTA Document Titled: "TEA-21 Planning and Environmental Provisions: Options for Discussion"—Continued

"Options Paper" Page #	Section Title	FHWA/FTA Proposed "Options"	AASHTO Comments
7	Definitions: TIP Amendments, Conformity Lapse, TIP extensions	1. An option would be to add definitions to the planning regulations for TIP Amendments, Conformity Lapse and TIP extensions in order to clarify ambiguous terms from ISTEA and EPA's transportation conformity rule	Specific definitions of these terms should be left to the consultation process within each metropolitan area. However, AASHTO recognizes the need for FHWA to grant 1 year TIP extensions under extenuating circumstances.
7 to 9	Planing & Environmental Provisions: Cross Cutting Issues—Public Involvement	<p>1. A first option would be a consistent but flexible approach to public involvement for both the planning and NEPA process based on the approach currently found in the planning regulations with their public involvement principles and performance expectations. States, MPOs and transit agencies would develop public involvement procedures tailored to local circumstances for transportation planning and project development. The public involvement procedures would be subject to public review and comment prior to adoption but not subject to approval by the FHWA/FTA</p> <p>2. A second possible option would be a consistent approach to public involvement for both planning and the NEPA process based on the approach currently found in the FHWA NEPA regulations</p> <p>3. A third approach might be to leave the planning public involvement approach as it is and modify the NEPA regulations to make the two agencies' public involvement requirement consistent based on the FHWA approach. The result would be two flexible FHWA/FTA approaches to public involvement each tailored to local circumstances and each consistent between the two agencies</p>	<p>AASHTO opposes the single public involvement process identified in Options 1 and 2. The planning process and the NEPA process have a number of differences and therefore it is appropriate that they be separate.</p> <p>AASHTO supports Option 3 because it provides a more flexible approach that can be tailored to local circumstances. Option 3 recognizes that the project level and planning level are different.*</p>

<p>4. A fourth option might build upon one of the above and include provisions to improve public involvement for underserved populations by setting particular standards or performance expectations. FHWA/FTA Questions: (1) Would one consistent but flexible public involvement process help States and MPOs to generate public interest and involvement in their efforts? (2) What FHWA and FTA implementation strategy would best aid States and MPOs to engage the public in transportation planning, project-development, and decisionmaking? (3) What is the best approach to improve public involvement for underserved communities?</p>	<p>AASHTO opposes the establishment of performance standards or performance expectations as identified in Option 4.</p>
<p>1. One option is to explicitly cite the principles of equity in the distribution of transportation resources and the tenets of the Executive Order on Environmental Justice. For example, the revised public involvement processes would reiterate that public involvement should be directed at the widest possible population, including non-English speaking and persons traditionally underserved by the transportation system with special efforts made for minority and low-income populations. In addition, this approach would promote consideration during the planning process of issues that have a direct linkage to equity, environmental justice and Title VI Civil Rights issues</p>	<p>AASHTO fully endorses and recognizes the need to look at these issues during project development, but feel that it is inappropriate for the federal government to look at how allocations that are not required by statute are made. <i>AASHTO strongly urges that the words “equity in the distribution of transportation resources” be struck from the first sentence of the FHWA/FTA option. The word “equity” should also be struck in the last sentence of the FHWA/FTA option.</i> AASHTO would like to see good examples of how others are addressing these issues, and encourage FHWA and FTA to collect and disseminate information on best practices.</p>
<p>2. A second option is to incorporate language which is specific to the equity and environmental justice concerns in potential revisions to the NEPA regulations and/or associated guidance. Language could be developed to emphasize that in the consideration of alternative transportation investments, alternatives should be designed to serve the broadest population reasonable, including low-income and disabled people, through the incorporation of multi-modal elements (pedestrian, bicycle, transit and highway services) wherever feasible and possible.</p>	

AASHTO Response to the February 10, 1999 FHWA/FTA Document Titled: "TEA-21 Planning and Environmental Provisions: Options for Discussion"—Continued

"Options Paper" Page #	Section Title	FHWA/FTA Proposed "Options"	AASHTO Comments
10 to 13	Elimination of Major Investment Study as a Separate Requirement	<p>1. Option 1 would: (1) define the role, function and scope of subregional planning; (2) stress the desirability of determining purpose and need for improvements in the planning process based on consideration of environmental and other non-transportation goals; (3) rely on interagency cooperation in conducting planning analyses (e.g. including Federal and State resource and permitting agencies from the outset); (4) recognize and rely on public involvement processes; and (5) produce appropriate documentation of decisions made during planning analyses. This approach would be optional at the planning stage and the Federal agencies would work with States, MPOs, and transit agencies to promote the adoption and execution of approaches to improve planning. Informational materials, documentation of best practices and technical assistance would be provided to stakeholders to facilitate their planning efforts</p>	<p>AASHTO does not support any of the options. AASHTO urges FHWA and FTA to implement the statutory requirement to eliminate the MIS as a separate requirement as set forth in Section 450.318 of 23 CFR by May, 1999. The principles of MIS that are not already addressed by other Federal regulations and statutes should be integrated, as appropriate, into the Metropolitan transportation planning and programming requirements of Section 450, series 300. Consistent with Congress's intent, the regulations promulgated as specified by Section 1308 of TEA-21 shall have no broader applicability than the current requirements of existing 23 CFR 450.318. Revisions to the metropolitan planning regulations, where it is not clearly stated, should <i>explicitly</i> embrace the "good" principles of MIS such as: proactive agency coordination and public involvement; <i>early consultation between the MPO and implementing agencies</i>, collaborative and multi-modal planning; analysis of alternatives; and financial capacity analysis for alternatives.</p> <p>AASHTO observes that all of the options take NEPA analysis into the planning process. That should not be done except on a voluntary basis. States should have the flexibility to do the NEPA analysis in the planning process—this should be permissive, not required.</p>

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2. A second option would be to require that transportation plans provide a statement of purpose and need for any proposed substantial transportation investment. This statement would be included in the transportation plan for metropolitan areas prior to initiation of the NEPA process. A consideration of a range of reasonable alternatives during the NEPA process would be accomplished with an alternative chosen based upon costs, impacts, and effectiveness in satisfying the stated purpose and need. If the analysis and review of the transportation problem achieves consensus on a narrowly-defined purpose and need that essentially dictates a modal response, then alternatives considered during NEPA could be correspondingly narrow focusing on location and design options. If, on the other hand, the planning process is not conducted and documented at a sufficiently robust level, then scoping may require further analysis prior to reaching consensus on which alternatives to study during the NEPA process.
3. A third option would entail initiation of the NEPA process early on, during planning, and would include conducting all planning analysis, development of purpose and need, development and analysis of all reasonable alternatives and all other requirements under the auspices of a formal NEPA process. In the absence of a proposed action, an environmental assessment would be conducted at a planning level of analysis, to review the chosen range of alternative actions for their impacts. If none of the alternatives had significant impacts the remainder of the review would focus on assessing potential design and location impacts of the alternatives. A FONSI or an EIS could emerge based on the impacts identified.
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2. AASHTO opposes the language that would "require" that transportation plans provide a statement of purpose and need.



AASHTO Response to the February 10, 1999 FHWA/FTA Document Titled: "TEA-21 Planning and Environmental Provisions: Options for Discussion"—Continued

"Options Paper" Page #	Section Title	FHWA/FTA Proposed "Options"	AASHTO Comments
		<p>4. A fourth option would rely on the MPO, the State DOT, and the transit agency(ies) to work out a well-defined, mutually acceptable approach to sub-regional planning and project development in a metropolitan area. The written agreement among these agencies would clearly define roles, allocate resources, and establish procedures for subregional planning and project development that are consistent with Federal policies on public involvement, environmental stewardship, and numerous others. This option would provide maximum flexibility in conforming Federal procedures to State and local requirements and processes. It would also present the greatest challenges in articulating the principles to be followed and in ensuring accountability.</p> <p>In all of the above options, the intent is to faithfully implement the TEA-21 provision that exempts plans and programs from mandatory consideration under NEPA. MPOs would not be required to conduct NEPA analyses on plans. However, they could more effectively utilize the analyses conducted during planning activities to facilitate compliance with NEPA requirements at a project level. If a planning process chose to conduct a NEPA analysis on a plan, this would be a permissible, voluntary decision.</p>	

<p>13 to 14</p>	<p>Cumulative and Indirect Effects</p>
<p>(1) Should a State DOT or transit agency be able to advance a project, on which there has been no MPO planning activity, through project development to the point of final approval without earlier mandatory consultation with the MPO? Project sponsors might benefit from MPO consultation which could result in reduced delays and costs and an improved system context for project development. Should there be a requirement for early MPO consultation or endorsement? What would be the best approach to enhance the linkage between planning and project development in this regard?</p> <p>(2) Which of these approaches would best respond to Congressional intent while eliminating the factors that generated cost, redundancy, and duplication of effort?</p> <p>(3) A key decision for an MIS effort was whether a problem was "major" and, hence, warranted such a study. Is some sense of scale (complexity of issues, costs of alternatives, etc.) helpful in determining when the planning process would be assisted by an enhanced analytical effort?</p> <p>(4) Should there be a requirement that the formal statement of "purpose and Need" for a project be adopted, concurred in, or in some way officially accepted by the MPO prior to the initiation of the project development process that addresses that purpose and need?</p> <p>(5) Are other options possible? If so what are they?</p> <p>1. One option for implementation would require an appropriate evaluation of these effects in a regional or subregional analysis, thus obviating the need for repetitious, project-by-project review. Such an approach might also provide an opportunity for more effective and efficient mitigation of cumulative impacts and the enhancement of adversely affected resources</p>	<p>Cumulative and Indirect Effects</p> <p>Option 1 indicates that wherever you have Cumulative and Indirect Effects, enhancement projects are required. AASHIO opposes this prescriptive approach.</p>

AASHTO Response to the February 10, 1999 FHWA/FTA Document Titled: "TEA-21 Planning and Environmental Provisions: Options for Discussion"—Continued

"Options Paper" Page #	Section Title	FHWA/FTA Proposed "Options"	AASHTO Comments
15 to 17	Environmental Streamlining	<p>2. A second option would be an approach whereby the NEPA project reviews would assess whether to rely on the planning analysis of cumulative and indirect effects to satisfy the CEO requirement for such consideration. In the absence of a robust planning-level review of these impacts, the project-by-project review as part of the NEPA evaluation would be needed to satisfy CEO</p> <p>1. Memoranda of Understanding/Memoranda of Agreement—FHWA and FTA have discussed the Environmental Streamlining provisions with representatives of other Federal agencies at the headquarters and field levels to begin building a common understanding of the provision and a coordinated implementation strategy. High level contact between cabinet level officials is a strong possibility, with either bilateral or multi-lateral MOUs/MOAs resulting from this contact. FHWA and FTA are also evaluating the desirability of developing model MOUs/MOAs for implementation at a sub-national level. Another option would be to disseminate agreements reached in one area with other areas that are contemplating the development of similar agreements. FHWA and FTA are also evaluating their experience in developing and using NEPA/404 merger agreements for insights into how best to use interagency agreements in implementing environmental streamlining</p>	<p>Option 2 is more acceptable to AASHTO so long as it is optional rather required to rely on planning level analysis. AASHTO interprets Option 2 to be a status quo position, and would like clarification from FHWA/FTA on this. AASHTO is concerned about what is meant by a "robust" planning level review.</p> <p>AASHTO is unclear as to the meaning of some of the terms used in the Environmental Streamlining section. AASHTO is concerned that the discussion under the heading "Memoranda of Understanding/Memorandum of Agreement" indicates no State involvement. The State DOTs need to be involved in this process. AASHTO urges U.S. DOT to move forward with MOU/MOA actions. We would encourage that one MOU/MOA, with input and review by AASHTO be signed by all Federal Agencies. Develop a principle based MOU/MOA with stated goals and intent as related to the streamlining. Such goals and intent should include a commitment to: (1) finding and eliminating conflicting or incompatible regulations and agency procedures; (2) omit redundancy and steps that do not add value to the process; (3) providing timely review and decision making and single public interest finding under NEPA; (4) providing clear and consistent guidance. US DOT should take the lead in ensuring that the principles in the MOU/MOA are carried out. Partnering arrangements should be undertaken on a National level.</p>

AASHTO urges FHWA/FTA that programmatic approaches between the Federal agencies include the following: (1) timely document review, decision points, comment deadlines; (2) procedures for communication, coordination, and documentation; (3) procedures for conflict resolution, and (4) omit redundancy and steps that do not add value to the process.

AASHTO opposes the development of regulations or guidance concerning "Enhanced Scoping and Lead Agency Role." Instead of guidance or regulations, information concerning "best practices" should be provided to State DOTs. Part of the problem is that the STATE DOTs cannot get Federal resources agencies to attend meetings, which goes back to the MOU/MOA issue. USDOT must take a lead, as the lead Federal agency, in coordination with other Federal agencies with the goal of producing environmentally responsible transportation projects. We need a NEPA process and the lead Federal agency needs to administer it.

2. Enhanced Scoping and Lead Agency Role—Experience has shown that many of the conflicts which delay Federal approvals of highway and transit projects are somewhat predictable and might be better anticipated and managed by using the scoping process as an early warning system. In addition, the development of interest-based negotiating and collaborative problem solving skills can help to creatively craft implementable solutions. One option to implementation might include an approach to complex projects where agencies agree upon review schedules only after sufficient information on issues has emerged to allow them to gauge the required level of effort for their respective agency. Another approach might make the scoping process, (as part of an aggressive, high visibility project management role by FHWA or FTA as the lead Federal agency), a mechanism for identifying the issues, and agreeing on roles, timeframes, and methodologies associated with advancing the project. The evaluation of regulatory language and/or guidance is underway to identify ways to enhance scoping efforts of the FHWA/FTA as lead agency

AASHTO Response to the February 10, 1999 FHWA/FTA Document Titled: "TEA-21 Planning and Environmental Provisions: Options for Discussion"—Continued

"Options Paper" Page #	Section Title	FHWA/FTA Proposed "Options"	AASHTO Comments
		<p>3. Pilot Efforts—One effective mechanism for testing and evaluating change is to engage in pilot efforts. In the environmental streamlining area, there are several options for types of efforts. One type of possible pilot effort, "NEPA Reinvention Pilots" might include partnerships between FHWA and/or FTA and State DOTs, MPOs, and/or transit agencies to evaluate and enhance how NEPA is factored into transportation decisionmaking. The focus would normally be on the project development process and how State and local project location and design decisions can be better integrated with Federal NEPA responsibilities. Nevertheless, an alternative approach might allow, at the non-Federal partners' option, the NEPA Reinvention pilots to encompass enhanced consideration of environmental factors in planning, with the goal of minimizing reevaluation of planning decisions during subsequent project development phases</p> <p>Another option for pilot efforts might be environmental streamlining pilot projects. These might consist of partnerships between FHWA and/or FTA, non-Federal transportation partners, and environmental resource and permitting agencies to test environmental streamlining concepts on specific projects. The goal of these projects would be to assure the engagement of all relevant agencies at the appropriate points in the process and to test and evaluate different approaches for arriving at environmentally responsible transportation decisions in the most timely fashion possible. FHWA and FTA will be assessing options regarding the potential number and type of pilot efforts and possible criteria for selection in the coming months</p>	<p>AASHTO advocates delegating authority to the States. AASHTO recommends: pilot projects in (1) the areas of programmatic approaches and delegation of Federal review and approval for non-major actions, e.g., 404 permit, NPDES, 106, etc. to the State DOTs and/or State environmental resource agencies and (2) pilot projects to investigate new methodologies that lead to a single public interest decision to satisfy multiple agency requirements and expedited approval. Pilot efforts need to help move toward greater flexibility for the States and resource agencies in making changes to the process.</p>

<p>17 to 18</p> <p>Other NEPA-Related Provisions of TEA-21</p>	<p>4. Reimbursement of Federal Agency Expenses—the inability of environmental resource and permitting agencies to fully engage in the transportation decisionmaking process at the most appropriate point has historically been a major obstacle to achieving the ideal of a fully integrated environmental review process. The agency reimbursement language in the environmental streamlining provisions of TEA-21 offers an opportunity to partially overcome this obstacle. TEA-21 includes specific conditions relating to agency reimbursement: expenses to be reimbursed are limited to those additional expenses needed to meet expedited time schedules. In addition, other statutory authorities exist for agency reimbursement and FHWA and FTA are exploring the full range of options for reimbursing agencies under any of the appropriate authorities. Furthermore, approaches to developing collaborative efforts with other Federal agencies are being explored in order to develop model reimbursement agreements and to facilitate the implementation of such agreements by Federal agency field staff</p> <p>1. Contracting for Engineering and Design Services—One option might be to retain the current approach to oversight and not require new, separate documentation as evidence of the objectivity of the consultants' work</p> <p>A second option would be to add regulatory language requiring separate documentation be prepared by the States or local public agencies in order to ensure the objectivity of consultants' work</p>
<p>249</p>	<p>AASHTO supports this implementation in a way that provides flexibility to the State DOTs, and which fosters change that expedite the way that resource agencies do business. States are concerned that if they provide funding, then things cannot be done in the way they have been done and need to be improved. AASHTO promotes development of "model reimbursement agreements" that (1) involve the States, (2) involves State agencies working with Federal agencies (not through FHWA), and (3) allows the States to have the option to pay for changes in the process. The FHWA Administrator has said that FHWA will implement this provision in the least restrictive way. The "Options" paper does not reflect this.</p> <p>AASHTO prefers the approach in Option 1 which does not require new, separate documentation.</p>

AASHTO Response to the February 10, 1999 FHWA/FTA Document Titled: "TEA-21 Planning and Environmental Provisions: Options for Discussion"—Continued

"Options Paper" Page #	Section Title	FHWA/FTA Proposed "Options"	AASHTO Comments
		<p>2. Design-Build Contracting—FHWA and FTA are concerned about design-build contracts for Federal-aid projects being left before the NEPA process is completed. To do so could give the appearance that the State or local transportation agency is fully committed to a single course of action and that the NEPA process is simply a clearance exercise and not a true decisionmaking process. There may, however, be some situations in which design-build procurements can be structured to allow for the design-builders to work on any alternative emerging from the NEPA process. FHWA and FTA recognize that the emerging interest in design-build contracting may warrant specific regulatory language or guidance addressing the relationship between design-build procurement and NEPA and will be developing options and possible approaches to implementing this TEA-21 provision</p>	<p>AASHTO shares the concern with FHWA/FTA regarding D/B contracting before the NEPA process is completed. However, AASHTO urges a flexible approach that maintains the spirit of the NEPA process rather than implementing too structured of an approach until more experience is gained.</p>

3. Real Property Acquisition and Corridor Preservation—FHWA is considering under an NPRM covering “Right-of-Way Program Administration” published for comment in the December 24, 1998 Federal Register, an “early acquisition” policy to accommodate the acquisition of land (including “at risk” activities) by State or local agencies that may be deemed necessary while NEPA considerations are being concluded. Interested parties should refer to the December 24, 1998 NPRM

AASHTO is concerned that the proposed rules published in the December 24, 1998 NPRM set down so many conditions that this provision of TEA-21 will not be useable. AASHTO is providing with its response to the “Options” paper a copy of the AASHTO concept paper “Right-of-Way and Corridor Preservation” which was submitted to Secretary Rodney Slater and the U.S. DOT TEA-21 docket number DOT-98-4146 on November 18, 1998. In summary, AASHTO requests that FHWA provide a mechanism that supports activities that would facilitate corridor preservation. It should enable State DOTs and other implementing agencies to use Federal funds to acquire or protect land for projects contained in statewide and metropolitan plans in cases where corridors to be preserved have been established as a result of what the State or implementing agency certifies to be a planning or project level analysis that considers environmental factors and prior to completion of the full project level NEPA process.

1. Applicability of the NEPA Regulation to Other DOT Modes—In 1993 the U.S. DOT National Performance Review effort recommended that the NEPA procedures of the various modes be blended into a single process. Efforts to accomplish this were purposely delayed until after passage of the surface transportation reauthorization which became TEA-21. Recent discussions within the U.S. DOT are pointing toward a dual effort, one of which would cover the entire department, the other of which would cover just FHWA, FTA, and potentially the high speed rail program of the FRA

AASHTO supports the approach that would remove barriers to collaboration between USDOT modal agencies on NEPA issues and which would allow one of the modal agencies to act as the lead agency for all other modal agency(ies). FRA should be part of this approach. Decision as to which modal agency acts as lead should support the most efficient approval process consistent with a thorough environmental review.

The first approach would update the U.S. DOT Order on NEPA to reflect a department-wide statement of environmental policy and remove barriers to collaboration between U.S. DOT modes on NEPA issues



AASHTO Response to the February 10, 1999 FHWA/FTA Document Titled: "TEA-21 Planning and Environmental Provisions: Options for Discussion"—Continued

"Options Paper" Page #	Section Title	FHWA/FTA Proposed "Options"	AASHTO Comments
		<p>One option would be to provide authority for one U.S. DOT agency to use the procedures of another U.S. DOT agency or act as agent for another U.S. DOT agency when a situation warrants this approach.</p> <p>A second option is to explore the expansion of the FHWA and FTA NEPA regulation to include high speed rail. While FRA has principal program authority for high speed rail, FRA and FHWA often serve as joint lead agencies on high speed rail corridors, with FHWA field staff often providing day-to-day oversight of Federal NEPA responsibilities. FHWA also must give approvals relating to crossings of Interstate highways or use of Interstate rights-of-way by high speed rail lines. At their terminals, high speed rail often must interconnect with urban mass transit systems. Given the intermodal partnership between FRA, FHWA, and FTA on high speed rail proposals, there may be advantages to broadening the applicability of the FHWA and FTA NEPA regulations and associated guidance to also include FRA's high speed rail responsibilities.</p>	

<p>2. Statement of Environmental Policy—One option would be for the FHWA and FTA to communicate a clear message that FHWA and FTA view NEPA responsibilities as being more than just about informed decisionmaking and that they include an affirmative duty to only approve transportation proposals which represent responsible stewardship of community and natural environmental resources. As part of such an articulation of environmental policy under this approach, FHWA and FTA could expand upon earlier statements concerning the use of Federal funds for mitigation and enhancement measures</p>	<p>AASHTO strongly opposes the part of the ‘Statement of Environmental Policy’ which says that “FHWA and FTA view NEPA responsibilities as being more than just about informed decisionmaking and that they include an affirmative duty to only approve transportation proposals which represent responsible stewardship of community and natural environmental resources.” The Congress, in passing TEA–21, indicated an expectation that the process would move in the direction of environmental streamlining. This option creates a new substantive, ill-defined requirement and moves in the opposite direction. AASHTO members are practicing responsible stewardship of these resources today. So, the concern with this option is over its Federal regulatory implications. The wording of this option indicates that the Federal Government would newly exercise a control over project selection (‘only approve’) based on its view of ‘responsible stewardship’ of certain resources. Not only would this be a new authority, but a vague and potentially far reaching one. Nothing in TEA–21 contemplated such a Federal role. Accordingly, AASHTO opposes this option because it would undermine the State and MPO authority and, contrary to the policy of TEA–21, it would complicate, not streamline, the environmental review process.</p>
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AASHTO Response to the February 10, 1999 FHWA/FTA Document Titled: "TEA-21 Planning and Environmental Provisions: Options for Discussion"—Continued

"Options Paper" Page #	Section Title	FHWA/FTA Proposed "Options"	AASHTO Comments
		<p>3. Lead Agency Responsibilities—FHWA and FTA are considering approaches to environmental stewardship that would more strongly communicate to agency staff and to its partners that they have a collective responsibility to use the NEPA process as more than a way of granting FHWA and FTA approvals. Such a communications could indicate that the NEPA process must also be the mechanism for addressing issues associated with obtaining permits, approvals, statutorily required reviews, and land transfers from other Federal agencies. As such, FHWA and FTA could articulate their obligation to meet the reasonable needs of those agencies for information and analysis in a form and at a time which allows those partner agencies to meet their statutory responsibilities</p> <p>One option might be to clarify the independent nature of the Federal NEPA decision, especially when State and local governments or private entities engage in "at risk" activities which create an appearance of commitment of the Federal Government to a particular course of action. As principal steward of the NEPA process, the lead Federal agency has a responsibility to ensure that the nature of commitments are fully disclosed</p> <p>A second option would reaffirm that the FHWA/FTA role, as lead Federal agency (FHWA or FTA), will be to manage the process to ensure that the Federal NEPA decisions pay appropriate deference to State and local decisions made in good faith without intent of forcing a particular Federal decision. The degree of deference might vary with greater deference paid to State and local decisions which considered a broad range of factors and which were made with the advice of appropriate Federal agencies</p>	<p>AASHTO urges U.S. DOT to take the lead in working with other Federal agencies in developing the coordinated environmental review process, developing MOAs/MOUs, setting timeliness for concurrent review, establishing a conflict resolution process and establishing clear and consistent guidelines and ensuring that all Federal agencies comply with the principles of the MOU/MOA. This is what States expect from FHWA/FTA" lead agency responsibilities."</p>

<p>4. Scoping and Early Coordination—FHWA and FTA experience has revealed that scoping and early coordination efforts can set the tone, positive or negative, for all subsequent project activities. It is therefore critically important that they be carried out as effectively as possible. Approaches are being explored which would establish enhanced performance expectations for scoping and for early coordination efforts, and FHWA and FTA invite suggestions on how they might appropriately scale such performance expectations to the different classes of actions (EIS, EA or CE)</p>	<p>AASHTO urges the distribution of “best practices” information rather than guidance or regulations regarding scoping and early coordination.</p>
<p>5. Purpose and Need and Evaluation of Alternatives—Options to provide clearer direction regarding what constitutes an acceptable statement of purpose and need are being explored and FHWA and FTA invite specific suggestions on this issue</p>	<p>“Purpose and Need” is a NEPA concept but the “Options” paper tries to link it to planning. This is inconsistent with new 23USC135(i). AASHTO is concerned about efforts to force these analyses in planning. None of the Options provide the opportunity to leave the process as it is. This is another area where information regarding “best practices” would be preferred. If FHWA and FTA are exploring options of acceptable “purpose and need”, AASHTO would like to comment in the development stage.</p>
<p>A particularly troubling issue relating to evaluation of alternatives is what to do with alternatives which do not fully meet purpose and need, but which partially satisfy purpose and need at substantially lower cost, time of implementation and impact. Current NEPA practice is to eliminate from further consideration as “unreasonable” any alternative which does not fully meet purpose and need. One approach would be to establish a policy by which such an alternative could be selected through the NEPA process based on a finding that the cost, time, and impact savings justify accepting lower than desire levels of transportation service</p>	

AASHTO Response to the February 10, 1999 FHWA/FTA Document Titled: "TEA-21 Planning and Environmental Provisions: Options for Discussion"—Continued

"Options Paper" Page #	Section Title	FHWA/FTA Proposed "Options"	AASHTO Comments
		<p>6. Categorical Exclusions—Additions to the list of projects which may be eligible for categorical exclusions are possible options and are currently being evaluated. Possible additions might include transportation enhancement projects, certain bicycle and pedestrian projects, especially those oriented around improving safety for bicyclists and pedestrians, wetland and upland habitat bank projects, and certain projects eligible for Congestion Mitigation and Air Quality Improvement Program funding including transportation demand management projects such as vanpool programs, bicycle stations, and services at existing transit or transportation centers designed to reduce single-occupant vehicle travel. In addition, FHWA and FTA are exploring the need for additional guidance on when a group of different, but related, categorically excluded actions may need to be evaluated as a whole if they have a net effect that may warrant further environmental analysis (e.g., ITS projects throughout a corridor)</p>	<p>AASHTO reserves the right to add to the list of additional projects that come under "Categorical Exclusions." For example, early Right-of-Way acquisitions should be added to this list. In addition, a more programmatic approach should be taken which delegates to State DOTs the production of and review of environmental documentation such that the focus of the resource agencies and USDOT is on those projects that have the potential of having significant impacts. This can be done by establishing standard conditions and mitigation that the State DOT assumes responsibility for evaluating, reviewing and implementing.</p>

<p>7. Environmental Assessments and Environmental Impact Statements—FHWA and FTA are evaluating the desirability of incorporating by reference relevant sections of the CEQ regulations in lieu of the procedural requirements currently in the FHWA and FTA NEPA regulation. Amplifying specific direction could be addressed in accompanying guidance</p>	<p>AASHTO supports “incorporating by reference relevant sections of the CEQ regulations in lieu of existing or new procedural requirements for FHWA/FTA and all other USDOT agencies.” In addition, AASHTO proposes that USDOT take the lead in discussing with CEQ the conflicts that have resulted with having to comply with regulatory requirements outside of the lead agency NEPA process. AASHTO has previously advocated that NEPA should provide the master framework for decisionmaking. Compliance with other regulatory requirements should be incorporated into the NEPA umbrella for a streamlined more effective process. Individual regulatory requirements, that go beyond the CEQ regulations, should be added, only if they serve to clarify or if they serve to significantly improve the decisionmaking process. Incorporating CEQ regulations by reference should be combined with continuation of such provisions as Categorical Exclusions and must not preclude streamlining provisions.</p>
<p>8. Limitations on Actions—One option might be to clarify that the FHWA and FTA cannot prevent State and local governments and private entities from taking actions that are “at risk” such as final design or land acquisition prior to NEPA approval. Further, it may help to clarify that FHWA and FTA will not finance such “at risk” actions and will not base their decisions on the actions taken by others</p>	<p>AASHTO supports the flexibility for States to take “at risk” actions, and believes that States should be reimbursed once the Record of Decision is made if the action is consistent with the Record of Decision. For example, for a Categorical Exclusion, detailed design should be able to be undertaken on a project while NEPA approval is being processed.</p>

AASHTO Response to the February 10, 1999 FHWA/FTA Document Titled: "TEA-21 Planning and Environmental Provisions: Options for Discussion"—Continued

"Options Paper" Page #	Section Title	FHWA/FTA Proposed "Options"	AASHTO Comments
		<p>Another option would be to maintain the status quo. For projects that will be federally funded, the present regulation prohibits final design and land acquisition (with certain limited exceptions) prior to the completion of the NEPA process. The enforcement of this prohibition has been confounded by the fact that specific funding sources, especially for smaller projects, are often not identified until late in project development. Maintaining the current prohibition could help to ensure the integrity of the NEPA process which mandates the consideration of impacts and alternatives prior to commitment of a particular course of action</p> <p>9. Programmatic approaches—An approach may be needed to explicitly recognize the appropriateness of programmatic approaches to NEPA compliance for categorical exclusions for limited types of projects. Programmatic approaches have proved to be efficient ways of meeting the NEPA requirements in uncomplicated and non-controversial situations. If such an approach were advanced, programmatic approaches to meeting the NEPA requirements which would not directly involve project level Federal approvals would be subject to periodic process reviews to ensure that they are being properly applied. This would enable the Federal agencies to focus limited resources on more problematic project-level decisions and to maintain a quality control for projects with beneficial or <i>de minimis</i> environmental impacts</p>	<p>AASHTO supports the programmatic approach, especially for combining Section 4(f) and Section 106, and the elimination of requirements for dual documents.</p>

	<p>10. Section 4(f)—FHWA and FTA are evaluating the option of separating the NEPA regulation from the Section 4(f) requirements, which are oriented toward preservation of parklands, public park and recreation lands, wildlife and waterfowl refuges, and historic sites. Given the scope of Section 4(f) issues, and in recognition of the need to issue revisions to the NEPA regulation in an expedited manner, a separate Rulemaking on Section 4(f) rule may be desirable</p>	<p>AASHTO supports pilot projects that include the Department of the Interior and the Advisory Council on Historical Preservation to streamline the Section 4(f) and Section 106 requirements in ways that would eliminate the requirement for dual documents. The section 4(f) regulation options for historic preservation which should be coordinated with SHPO under Section 106 of the National Historic Preservation Act. An alternative analysis should not be required when the SHPO and lead Federal agency agree there is mitigation which appropriately serves the long term goals of historic preservation. AASHTO proposes that the USDOT and the Advisory Council develop an agreement to allow for this. AASHTO would like to see this issue addressed as soon as practicable and feels that it should be addressed concurrently with the re-write of the NEPA process.</p> <p>AASHTO supports the described clarification.</p>
	<p>11. Transportation conformity—There may be a need to explain and clarify the point during the NEPA process at which a conformity finding on the plan and TIP must be made before proceeding with NEPA approvals. Previously FHWA maintained that conformity must be made at the time that preliminary engineering is programmed for NEPA development. Subsequently, proposed guidance suggested that conformity should be demonstrated before the final NEPA approval (i.e. approval of CE, FONSI, or FEIS). Such a clarification could ensure that conformity is demonstrated for the most likely project scenario before the NEPA process is completed for such project</p>	

Note: Throughout this AASHTO response matrix, the following applies:  
 Asterisk (\*) indicates areas where AMPO basically agrees with the AASHTO position based on 3/16/99 meeting.  
 Italicized text is the result of the PPPI conference call 3/18/99 following the 3/16/99 meeting with AMPO.



STATEMENT OF BRIAN A. MILLS, COMMISSIONER, ASSOCIATION OF METROPOLITAN  
PLANNING ORGANIZATIONS

Mr. Chairman and Members of the Subcommittee, I am Brian Mills, County Commissioner for Cass County, Missouri.

I am appearing today at your invitation on behalf of the Association of Metropolitan Planning Organizations of which I am Chairman of the Board of Directors. I want to thank you and the Members of this Subcommittee for holding this series of hearings to review the implementation of the Transportation Equity Act for the 21st Century (TEA-21) as we approach its first-year anniversary.

AMPO represents the interests of regional transportation planning organizations and assists them in developing plans for multi-modal transportation systems that address air quality, welfare reform and growth issues. AMPO is a program of the National Association of Regional Councils (NARC). NARC represents the regional councils of governments, regional planning and development districts, regional transportation planning organizations and other groups that foster local cooperation and coordinate the delivery of Federal and State programs in addressing cross-cutting economic, environmental, equity and growth challenges.

Nearly 8 years ago, the Intermodal Surface Transportation Efficiency Act (ISTEA) established a fundamentally new direction and approach for the Federal-aid highway and transit programs. With ISTEA we embarked on a unique and well-founded experiment in new federalism in which there was devolution of responsibility for meeting national transportation policy goals. ISTEA provided the States and their local government partners with program flexibility and the financial resources to implement a broad mix of multimodal project and management strategies that would meet national, State and local mobility and access needs while simultaneously addressing environmental, social and economic priorities.

TEA-21, as an affirmation of ISTEA's new federalism, refined the framework for a more robust and transparent transportation planning process and for ensuring continued and expanded State and local collaboration. TEA-21 also includes provisions to streamline the planning and project delivery process, and extends State consultation to local officials in non-metropolitan. We strongly advocated TEA-21's affirmation of ISTEA and its refinements, and we applaud the Congress for its foresight and wisdom in doing just that and in enacting a sound piece of public transportation policy.

We also supported the substantially increased levels of Federal investment in surface transportation that were made possible by ensuring that revenues to the Highway Trust Fund are able to be spent as they accrue. However, Mr. Chairman, because of changes in the way the Minimum Guarantee Program is administered, the record levels of new funding are not evenly spread across all program categories, leaving most metropolitan areas with a disproportionately smaller increase in Surface Transportation Program (STP) funds, and some with no increase at all. In three States, metropolitan areas actually saw a decrease in STP funds. This is a funding challenge that we believe can be, and should be, resolved within the individual states through collaboration with local governments by taking advantage of TEA-21's important modifications to the metropolitan transportation planning process.

Mr. Chairman, at this point, it may be that it is too soon to assess the impacts of TEA-21's planning process refinements. Details of the modifications will be established through the regulatory process before full implementation. In the interim, the Metropolitan Planning Organizations (MPOs), with their State Department of Transportation and transit agency partners, are moving forward in the spirit of TEA-21 to expand the technical foundation for decisionmaking, to broaden the involvement of non-traditional stakeholders, to eliminate redundant procedures and to improve responsiveness and accountability.

We also have provided our views to the U.S. Department of Transportation (U.S. DOT) on implementation of TEA-21's planning provisions, and today I would like to share our perspective on several, key planning issues that will be addressed in the regulations.

FISCAL ACCOUNTABILITY AND COOPERATIVE REVENUE FORECASTS

The first issue is fiscal accountability and the need for cooperatively developed revenue forecasts. Mr. Chairman, you recently heard from Mayor Ken Barr on this issue when he testified before this Subcommittee on April 15th on behalf of the U.S. Conference of Mayors. We fully concur with his statement and want to underscore the need for U.S. DOT to issue clear directives on this provision.

TEA-21 ratified and strengthened the concept of fiscal discipline and accountability. The financial constraint provisions under which we now operate require a demonstration of consistency of proposed transportation investments with currently

available, projected and proposed sources of revenue. We have made progress in moving away from the project "wish lists" that existed prior to ISTEA—now long range transportation plans are more than just a simple documentation of total transportation system needs, and Transportation Improvement Programs (TIPs) are more than a mere list of projects from which the States can pick and choose to fund without consultation.

TEA-21 preserved the fiscal constraint requirement and also addressed a serious shortcoming—the inadequacy of revenue forecasts as the basis for developing financially constrained plans and programs. In the regulations implementing ISTEA, U.S. DOT clearly indicated that the States needed "to have a process for obtaining information on funding needs for the metropolitan areas as well as the non-metropolitan areas of the State to provide a basis for deciding how to distribute the Federal funding," yet few States complied.

The problem of inadequate or completely missing revenue forecasts surfaced because many of the States refused to provide estimates of Federal funding that would be available to the metropolitan areas. In most cases this happened because the States did not want to decide at the start of the planning process how to allocate their funds among the metropolitan and non-metropolitan areas within each State.

Mr. Chairman, we strongly support the provisions in TEA-21 requiring cooperative revenue forecasts to remedy this shortcoming, and we recommend that the planning regulations clearly indicate that the States, transit operators, and MPOs must cooperatively establish a set of procedures for projecting future revenues that will be allocated to metropolitan areas and non-metropolitan areas within each state. We believe that each State with its MPO and transit partners should have the flexibility to establish a unique set of procedures to meet their circumstances, but we suggest that there are common elements that should be included:

- An agreed upon distribution of estimated future revenues.
- A set of decision rules outlining the process for allocating funds and the range of certainty regarding estimated funding allocations. Such decision rules for allocation should be needs based, and also reflect the underlying policy rationale for the Federal program categories.
- An internal appeals process if there is disagreement among the parties regarding the estimating procedures, or if there is a question regarding compliance with agreed upon estimates.
- An external appeals process to USDOT if one or more MPOs indicate the State has failed to comply with the requirement for the development and/or implementation of a cooperative revenue estimating process. In this case, USDOT would have the option of disapproving a state's STIP for failure to comply with the planning requirements.
- The agreed upon process and decision rules for cooperatively estimating revenues should be outlined in a Statewide Memorandum of Understanding (MOU) between the state, transit operator(s), and the MPOs within each state.

These elements are outlined in one of our Issue Papers, which are attached to this testimony.

Mr. Chairman, such a cooperatively developed revenue estimating process is also important because it can provide the mechanism within each State to address the negative effect of disproportionately smaller increases in STP funds available to the metropolitan areas. Some States, such as Arizona, Texas and Florida have begun discussions with their metropolitan areas to ensure that they too will benefit from TEA-21's forty percent overall funding increase.

TEA-21 elevated the awareness of the need to continue to invest in our nation's transportation infrastructure. The commitment to fund surface transportation at record levels clearly put transportation on the national agenda as a non-partisan legislative priority. In order to ensure that surface transportation remains on the forefront of the national agenda in the years to come, we need to make the most of this new infusion of resources. This can only be accomplished if MPOs with their partners and stakeholders work collaboratively.

#### INFORMATION GAPS AND NEEDS

Mr. Chairman, the subject of adequate information is an important related issue. A key to the success of any partnership arrangement is access to full and adequate information. Without complete disclosure, some parties to the partnership necessarily will have to operate at a disadvantage and we lose the benefits from, and faith in, a transparent decisionmaking process.

TEA-21 requires that the USDOT annually provide Congress with an update on the obligation of Federal-aid highway funds by program, funding category, type of improvement, State and sub-state geographic area. When he testified before you

earlier this month, Mayor Barr expressed the U.S. Conference of Mayors' concerns regarding the reporting of this information. We concur that the tabular information provided in the Section 104(j) tables is complex and confusing, and we believe U.S. DOT should consult with the primary users, including local elected officials, to improve the presentation of this valuable source of information.

The MPOs are also faced with a potentially problematic new reporting requirement. [Section 134(h)(7)(B)]. The MPOs must publish or otherwise make available an annual listing of projects, consistent with the categories in the Transportation Improvement Program (TIP), for which Federal funds have been obligated in the preceding year. While this information will be extremely valuable to all stakeholders and interested parties, the MPOs cannot assemble this information without the cooperation of the implementing agencies. State departments of transportation and transit agencies are the institutions with the authority for obligating Federal funds for projects included in the TIPs. Therefore, those agencies must be required to provide timely information on the status of Federal projects for which Federal funds have been obligated, and the most effective means to provide this information is through a project monitoring system.

Mr. Chairman, we therefore recommend that U.S. DOT require within each State a project monitoring system, cooperatively developed by the State departments of transportation, the MPOs and transit agencies, for the purpose of tracking highway and transit obligations. Such a project monitoring system would have to be maintained by the agencies responsible for obligating the Federal funds. It also seems reasonable to expect that such a monitoring system should be linked to the U.S. DOT's 104(j) report as well as to similar documents prepared for the purpose of reporting the obligation of Federal transit funds.

#### ILLUSTRATIVE PROJECTS

Among TEA-21's modifications to the planning process was one that was intended to provide additional flexibility in responding to the fiscal constraint provisions established under ISTEA. The States argued that the requirement to link plans and programs to available and projected resources limited their ability to show full needs in the long range transportation plan, and which would be used for devising long term financial strategies.

We did not agree. Since ISTEA, many MPOs have prepared full needs assessments as components of, or attachments to, their long range plans, but they also clearly delineate project priorities within available and projected resource constraints. Nevertheless, TEA-21 now permits the financial plan component of both the plan and TIP to include "illustrative" projects, which are defined as those projects that would be included in the plan or TIP if additional resources were to become available.

Mr. Chairman, we believe that Congress did not intend the inclusion of "illustrative" projects to alter the existing financial constraint requirements, nor for such projects to have any status as normal or regular projects in demonstrating conformity of the long range transportation and TIP with State Air Quality Implementation Plans (SIPs). We are especially concerned that this provision not be used to establish "de facto" unconstrained plans and programs from which States can "cherry-pick" projects based on hidden priorities established outside the planning process.

As I indicated earlier, fiscal accountability has been a hallmark of the more rigorous and collaborative transportation planning process. In order to ensure that this key factor not be diluted or bypassed, we have recommended that the planning regulations explicitly indicate that "illustrative" projects are clearly outside the fiscal constraint boundaries of plans and programs and have no legal standing with respect to transportation/air quality conformity demonstrations. Moreover, we have suggested the following should be included in the regulations:

- MPOs should approve any list of illustrative projects as part of the normal metropolitan planning process.
- The U.S. DOT should notify the MPO that a request for approval has been made for selection of a project from the illustrative list, and should not approve selection by the State of any illustrative project without approval by the MPO.
- Prior to approving any request by the State for selection of an "illustrative" project in the plan or TIP in a non-attainment area, the MPO should first demonstrate conformity of the plan and TIP with the inclusion of the "illustrative" project.
- If "illustrative" projects are added, then both the plan and TIP must continue to be financially constrained, either by adding revenues or by removing other projects.

Mr. Chairman, we strongly urge you to continue to monitor how this provision is incorporated in the upcoming planning regulations and implemented across the States. We believe there is no other provision as important to ensuring continued State and local collaboration than the "Truth in Funding" fiscal constraints provisions established under ISTEA and affirmed in TEA-21.

#### INCORPORATING MAJOR INVESTMENT STUDY (MIS) PROVISIONS IN THE PLANNING PROCESS

A fundamental goal of TEA-21 was to streamline the processes and procedures required for moving projects from inception to implementation and construction. One component of TEA-21's streamlining is the elimination of the Major Investment Study as a stand-alone requirement and the incorporation of similar analyses directly into the metropolitan transportation planning process.

The intent of the MIS requirement was to provide for early consideration of broad array of modal strategies where the need for improvements had been established for a major corridor or subarea. The MIS requirement also provided a mechanism for public involvement in the earliest stages of analyses of modal alternatives and strategies. While the objectives for such analyses were fundamentally sound, problems surfaced because permitting agencies subsequently involved during the project-specific Environmental Impact Statement (EIS) analyses stage did not accept the results of the earlier MIS, which narrowed the array of alternatives under consideration. This led to redundant analyses, duplication of effort and added costs.

TEA-21 provides an approach to remedy the problems associated with the MIS while preserving beneficial features in the planning process. At a minimum, the regulations implementing TEA-21 should clearly indicate that the metropolitan transportation planning process should be the mechanism and forum:

- (1) for establishing the need for improvements in a corridor or subarea,
- (2) for involving the public and stakeholders at the earliest stages of planning,
- (3) for assessing and narrowing the array of modal alternatives and strategies to address corridor level or subarea improvement needs; and
- (4) for evaluating the impact on, and compatibility of, the array of modal alternatives and strategies with regard to the total metropolitan transportation system.

The results of these analyses should be recognized, accepted and used through the later stages of analyses under the policy and procedure project-level rules of the National Environmental Policy Act (NEPA). Such analyses should complement, not duplicate, the NEPA process. We strongly support efforts to streamline the planning and project delivery process, but in doing so, we hope that the best features of planning process are preserved.

#### IMPLICATIONS OF RECENT COURT DECISION ON TRANSPORTATION CONFORMITY DEMONSTRATIONS

Finally Mr. Chairman, I want to bring to your attention our concerns regarding the recent decision by the U.S. Court of Appeals for the District of Columbia. This decision essentially establishes new rules for making conformity determinations that will make it extremely difficult if not impossible for many metropolitan areas to demonstrate conformity of their long range transportation plans with State Air Quality Implementation Plans (SIPs).

The 1990 Clean Air Act amendments defined "transportation conformity," and the U.S. Environmental Protection Agency (EPA) subsequently issued extensive, detailed and complex regulations outlining the conformity process. Despite 9 years of experience and efforts by EPA to amend the regulations, which were remanded by the recent court decision, most metropolitan areas continue to struggle through a complicated, resource intensive and costly set of procedures that have done little to help clean the air. Now the process will become even more difficult.

The problems associated with restricting projects in progress are receiving the most attention. We concur that by eliminating the ability to grandfather projects until the point at which there is a contractual commitment by the U.S. Federal Highway Administration (FHWA) or Federal Transit Administration (FTA), an unacceptable amount of uncertainty is added to the entire planning and financing process.

The Court's decision also exacerbates another technical problem, which has been acknowledged by the members of this organization and by the American Association of State Highway and Transportation Officials (AASHTO). Under the existing regulations there is a mismatch between the time horizons for attainment or maintenance of air quality standards in the SIP and the 20-year time horizon required for the long range transportation plan. The time horizons in the SIP for either attainment or maintenance do not extend this far into the future.

The result of this mismatch affects the demonstration of conformity of the long range plan. The mobile source emissions budget for the years beyond the SIP horizon is a presumed projection of mobile source emissions, which can be no higher than the emissions level at the time of attainment. This puts the transportation sector at a discrete disadvantage because it is left without a means to negotiate tradeoffs between mobile and non-mobile sources for the out-years beyond the attainment or 10-year maintenance period. Therefore, the practical result is that there is no mechanism for examining tradeoffs among mobile, areawide and stationary sources during that period.

Mr. Chairman, we urge you to closely monitor the results of this Court decision and to consider adjustments to the Clean Air Act that would simplify and rationalize what has become an extremely burdensome and complicated process that adds little to protecting and improving the environment.

We also recommend that you consider modifications that would address and solve the problems associated with the transportation plan/SIP time horizon mismatch. A suggested remedy is to require that the long range transportation plan demonstrate conformity with the operative SIP emissions budget, unless or until the adoption of a negotiated emission reduction strategy that considers mobile and non-mobile emission reduction tradeoffs for the out-years beyond the timeframe of any applicable attainment or maintenance plan.

#### CLOSING COMMENTS

Mr. Chairman, I want to reiterate that we believe ISTEA and its successor TEA-21 can provide the funding and policy tools to address the transportation challenges of our metropolitan regions. While it is still too early to adequately determine the effectiveness of TEA-21's refinements, I have offered several recommendations for implementation. I urge you to continue to monitor the progress in achieving the vision and goals set forth for our nation's surface transportation infrastructure. We stand ready to participate and support you and your committee's efforts. Thank you for this opportunity to present the views of the Association of Metropolitan Planning Organizations.

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#### ISSUE PAPER—RECOMMENDATIONS FOR IMPLEMENTING TEA-21

##### METROPOLITAN PLANNING PROVISIONS

###### *Background*

TEA-21 reaffirms and basically retains the structure of the metropolitan transportation planning process. Most of the modifications are intended to streamline, build upon and strengthen, but not to disturb the existing metropolitan planning process requirements. Key modifications include:

- More than one MPO may be designated within an existing metropolitan planning area only if the Governor and existing MPO concur (adds MPO approval).
- The boundaries of existing MPOs in nonattainment areas will not be expanded or otherwise adjusted as a result of the new air quality standards, unless the Governor and MPO (i.e., units of local government representing 75 percent of the population) reach agreement on a boundary change.
- Coordination between and/or among MPOs is required in cases where projects are located within the boundaries of more than one MPO.
- USDOT shall encourage MPOs to coordinate the design and delivery of non-emergency transportation services provided by transit recipients and recipients of assistance for non-emergency transportation from agencies other than USDOT.
- The consolidation of ISTEA's 16 planning factors into 7 general factors that must be taken into account in assessing the projects and strategies under consideration for implementation in a metropolitan region. Failure to consider any specific factor in formulating plans, projects programs, and strategies, or in certifying the planning process, is not reviewable by any court.
- Freight shippers, providers of freight transportation services, and representatives of users of public transit are added to the list of parties that must be given the opportunity for review and comment on plans and TIPs.
- The MPO must publish or otherwise make available an annual listing of projects, consistent with the categories in the TIP, for which Federal funds have been obligated in the preceding year.

Most of these modifications can easily be incorporated directly into the existing metropolitan planning requirements. Nevertheless, inclusion of some of the above additions or expansions to the planning process must be accomplished in a manner

that avoids disruptions in existing procedures, is practical, and above all, is consistent with the intent of TEA-21's authors.

#### *Issues/Recommendations*

1. TEA-21's additions and amendments to the metropolitan planning process generally expand upon rather than alter the existing metropolitan planning process. Therefore, the existing metropolitan planning regulations should be retained, and amendments made only to incorporate TEA-21's amendments, clarifications and additions to the process.

2. In cases where projects extend beyond the boundaries of one metropolitan planning area, coordination between and/or among MPOs should be specified through a Memorandum of Understanding.

3. In providing stakeholder groups, including those newly identified in TEA-21, with opportunity for review and comment on plans and TIPs, the MPOs are subject to general minimum requirements established by USDOT. To avoid unreasonable cost and staff burdens, such requirements must enable the MPO to use reasonable discretion in determining appropriate and feasible access to the models and analyses on which plans and TIPs are based. Consistent with rules established under the Freedom of Information Act (FOIA), the MPOs must be able to recover the costs associated with data manipulation, duplication, delivery and/or analyses resulting from requests for information and data beyond what is normally published and distributed to the general public. Also consistent with FOIA, the MPO must be able to ensure restricted access to proprietary and confidential data.

4. Since the State departments of transportation and transit agencies are the institutions with authority for obligating Federal funds, those agencies must also be held accountable for providing the MPOs with timely information regarding the status of federally funded projects that are included in the TIP and for which Federal funds have actually been obligated. USDOT should require the development of a project monitoring system, to be developed cooperatively by the State DOTs, transit operators, MPOs and local governments, for the purpose of tracking highway and transit project obligations. Such project monitoring systems would be maintained by those agencies responsible for obligating Federal funds, and made accessible to the MPOs.

#### DEVELOPING STRATEGIC COOPERATIVE REVENUE FORECASTS

##### *Background*

ISTEA's drafters envisioned a more financially accountable approach to the development of long-range transportation plans and transportation improvement programs, moving away from the project "wish lists" that existed prior to ISTEA. The financial constraint requirement was one means to ensure that transportation plans would evolve from a simple documentation of system needs, and TIPs would evolve from a mere listing of projects. With this requirement, ISTEA embraced the concept that both the plan and the TIP should function as contemporary decision management and project implementation/monitoring tools.

TEA-21 reaffirms the concept of fiscal discipline and addresses a shortcoming that has come to light in the 6 years of planning practice under the new planning processes laid out through ISTEA—i.e., the inadequacy of revenue forecasts as the basis for developing financially constrained plans and programs. This is not a new issue, but one that was referred to in the regulations implementing ISTEA. In the preamble to the statewide and metropolitan planning regulations published in 1993, U.S. DOT acknowledges that the states may have difficulty in providing estimates of Federal funding that will be available for individual metropolitan areas because of the fact this would require the states to decide how they intend to allocate their funds among the metropolitan and non-metropolitan areas within each state. Nevertheless, U.S. DOT indicated that the states needed "to have a process for obtaining information on funding needs for the metropolitan areas as well as the nonmetropolitan areas of the State to provide a basis for deciding how to distribute the Federal funding."

In TEA-21, Congress concedes that the issue of the adequacy of financial forecasts must be further addressed, and therefore, explicitly requires (1) the states and MPOs to cooperatively develop estimates of funds that will be available to support plan implementation, and (2) the MPO, the State and public transit agency to cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

### *Issues/Recommendations*

TEA-21's requirements for cooperatively developed financial forecasts reaffirm, clarify and expand on the existing concepts and regulations implementing ISTEA (23 CFR 450.322 and 450.324).

1. The current regulations implementing ISTEA require that a financial element be included in the long-range plan and TIP. The purpose of the financial plan element is to demonstrate consistency of proposed transportation investments with currently available, projected and proposed sources of revenue. The financial plan must compare estimated revenues from existing and proposed sources of revenue; projected costs of construction, operation and maintenance; and include an "action plan" to demonstrate the steps that will be taken to ensure new revenues will be realized. The current regulations also clarify the definition of "available" or "reasonably expected to be made available" funds; specify that action strategies for obtaining new resources need to be outlined; and permit overprogramming in the TIP by defining "available" or "committed" Federal funds to mean authorized funds, which are greater than what is actually available for obligation.

The drafters of TEA-21 did not intend to disturb ISTEA's financial constraint provisions, and therefore, when the provisions in TEA-21 are implemented, *the existing regulations should be left intact.*

2. While the current regulations and guidance acknowledge the requirement for the states to have some mechanism for forecasting revenues, it gives the states wide discretion in how those estimates of revenues are to be provided. TEA-21 clearly requires a more specifically defined and cooperatively established process for preparing revenue forecasts.

The current regulations should be expanded to require the states, transit operators, and MPOs to cooperatively establish a set of procedures governing the projection of future revenues that will be allocated to metropolitan areas and non-metropolitan areas within each state.

Such cooperatively developed processes must incorporate the following elements:

- An agreed upon distribution of estimated future revenues.
- A set of decision rules outlining the process for allocating funds and the range of certainty regarding estimated funding allocations. Such decision rules for allocation should be needs based, but also reflect the underlying rationale for the Federal program.
- An internal appeals process if there is disagreement among the parties regarding the estimating procedures or if there is a question regarding compliance with agreed upon estimates.
- An external appeals process to USDOT if one or more MPOs representing at least a majority of the population within all the metropolitan areas of the State indicate the State has failed to comply with the requirement for the development and/or implementation of a cooperative revenue estimating process. In this case, USDOT would have the option of disapproving a state's STIP for failure to comply with the requirements.
- The agreed upon process and decision rules for cooperatively estimating revenues shall be outlined in a Statewide Memorandum of Understanding between the state, transit operator(s), and the MPOs within each state.

### INCORPORATION OF ILLUSTRATIVE PROJECTS IN THE TRANSPORTATION PLAN AND TRANSPORTATION IMPROVEMENT PROGRAM

#### *Background*

In the debates leading to the enactment of TEA-21, the states argued that ISTEA's financial constraint provisions limited their ability to document full needs in the long range plan as the basis for devising long-term financial strategies and to manage implementation of projects included in the TIP. Nevertheless, in drafting TEA-21, Congress affirmed the value and desirability of the fiscal discipline and accountability that ISTEA imposed by requiring financially constrained transportation plans and programs. The original Congressional intent to make long-range transportation plans and Transportation Improvement Programs (TIP) more fiscally realistic by constraining them to reasonably available revenues remains intact in TEA-21.

However, Congress did acknowledge the merits of being able to identify additional project needs in both the plan and TIP for which funds are not available. TEA-21 now permits the financial plan component of the long-range transportation plan and TIP to include "illustrative" projects, which are defined as those projects that would be included in the plan or TIP if additional resources were to become available. Congress did not intend that the inclusion of projects would alter the existing financial constraint requirements that provide fiscal discipline and accountability. Nor did Congress intend projects to have any status as a normal or regular project in deter-

mining conformity of the long-range transportation plan and TIP with State Air Quality Implementation Plans (SIPs).

TEA-21 indicates that including a project in the financial plan component of the long-range transportation plan or TIP for purposes does not subsequently selection of the project from the list of illustrative projects. TEA-21 also provides that the selection of any projects from the list of projects included in the financial plan component of the TIP would require action/approval by the Secretary of USDOT.

#### *Issues/Recommendations*

1. Projects may be included in the financial component of the long-range transportation plan or TIP as part of an additional list of projects. Such projects are intended to assist in the development of vision-based plan and programs and are not included in fiscally constrained plans or programs. MPOs should approve any list of illustrative projects as part of the normal metropolitan transportation planning process.

2. Illustrative projects, which may be included as part of the financial component of the plan or TIP, will not be included in determining conformity of the plan or TIP with the State Air Quality Implementation Plan (SIP).

3. Projects included in the financial component of the long-range transportation plan or TIP as part of an additional list of projects may not be selected for implementation without approval by the Secretary of USDOT. The Secretary should be required to notify the MPO that a request for approval has been made for selection of a project from the illustrative list, and should not approve selection by the State of any illustrative project without approval by the MPO.

4. Prior to approving any request by the State for selection of a project in the plan or TIP, in a non-attainment area, from the illustrative list, the MPO should be required to demonstrate conformity of the plan and TIP with the inclusion of the project that is added from the illustrative list.

5. If projects from the illustrative projects list are added to the plan and TIP, both the plan and TIP must continue to be financially constrained either by adding revenues or by removing other projects in the plan and TIP.

#### PROJECT SELECTION

##### *Background*

ISTEA first identified "project selection" as an action that takes place subsequent to the development of, but in conformance with, the Transportation Improvement Program (TIP). The concept of project selection and its application has been somewhat ambiguous. If the TIP must be financially constrained and the projects contained within it must be prioritized; and if project selection must be consistent with the TIP, then how could project selection differ from the development of the TIP? Moreover, the State Transportation Improvement Program (STIP) must include the MPO(s) TIP(s), unmodified, either directly or by reference. USDOT never adequately addressed the ambiguities related to project selection in regulations or guidance regarding the implementation ISTEA.

TEA 21 attempts to clarify "project selection" by modifying the definition, and by indicating that the rearrangement of project priorities in a TIP does not require action or approval by USDOT. Nevertheless, TEA 21's modifications still do not adequately address the underlying ambiguities in defining and implementing project selection.

#### *Issues/Recommendations*

1. The key elements of the existing metropolitan and statewide planning requirements and guidance that implement ISTEA's TIP development provisions should be retained:

- (1) only those projects for which funds are reasonably expected to be available may be included in the TIP;

- (2) the TIP must include a listing of projects in order of priority. To this end, it is recommended that USDOT reinstate the requirement that the initial year of the updated TIP contain an "annual element," which represents the priority projects agreed upon for funding that year.

- (3) project selection must be consistent with the priorities identified in the TIP; and

- (4) the STIP must include, without modification, the TIP, either directly or by reference.

2. The definition of "available or committed" Federal funding should continue to be the level of Federal funding authorized, with the understanding that this permits some degree of over-programming. This level of over-programming, together with



the 3-year duration of the TIP, provides sufficient flexibility for managing the obligation of Federal funds.

3. The establishment of, and access by the MPO to, a project monitoring system will enable the MPOs to assess consistency of project implementation with programming commitments. USDOT should require the development of a project monitoring system, to be developed cooperatively by the State DOTs, transit operators, MPOs and local governments, for the purpose of tracking highway and transit project obligations and encumbrances. Such project monitoring systems would be maintained by those agencies responsible for obligating Federal funds, and made accessible to the MPOs.

4. To the extent that the implementing agencies are responsible for preparing project estimates for use by the MPO in developing the TIP, those implementing agencies should also bear responsibility for adjustment to project costs once the projects move from the TIP to implementation. As part of the normal Memorandum of Understanding typically between an MPO, State department of transportation, and transit agency (§450.310) the MPOs, states and transit agencies should be required to cooperatively establish a process for addressing project cost overruns.

#### INCORPORATING THE MIS INTO THE METROPOLITAN PLANNING PROCESS

##### *Background*

In implementing the Intermodal Surface Transportation Efficiency Act of 1991, U.S. DOT established a requirement for a Major Investment Study (MIS) in cases where project sponsors were contemplating corridor or subarea improvements that might involve construction of major highway or transit facilities. The intent of the requirement was to provide for early consideration of a broad array of modal alternatives where the need for improvements had been established for a major corridor or subarea. The MIS requirement also provided a mechanism for public involvement in the earliest stages of analyses of modal alternatives and strategies. While the intent was salutary, problems arose because agencies subsequently involved during the project-specific Environmental Impact Statement (EIS) analyses stage did not recognize the results of the earlier MIS, which narrowed the array of alternatives. This led to additional analyses, much duplication of effort and added costs.

In the Transportation Equity Act for the 21st Century (TEA-21), the Congress attempts to remedy the problems associated with the MIS requirements while retaining the beneficial features. Sec. 1308 of TEA-21 directs the Secretary of U.S. DOT to eliminate the major investment study requirements contained in Sec. 450.318 of title 23 of the Code of Federal Regulations, and to promulgate regulations that will incorporate the major investment analyses into the metropolitan transportation planning process. Therefore, the concept of MIS is retained and enhanced as a statutory requirement, and the MIS will survive in a different form, but no longer as a stand-alone requirement for major highway and transit investments.

The language in Sec. 1308 of TEA-21 regarding MIS, and its history, is sparse. Nevertheless, the intent can be extracted from its association with the reforms of the EIS process provided for in Sec. 1509 of the Act. Congress explicitly endorses the USDOT policy that major investments must be premised on a rigorous and objective analysis of the feasible alternatives to meet existing or forecasted needs in a corridor or subarea. Just as importantly, Congress has provided that the MIS must be complementary to the formulation of the required EIS.

##### *Issues/Recommendations*

1. The MIS is no longer a stand-alone requirement. The primary objectives and function of the MIS are to be incorporated into the ongoing metropolitan planning processes and reflected in revised metropolitan planning regulations. Moreover, new regulations implementing the environmental streamlining provisions of TEA-21 and modifications to regulations dealing with the NEPA process for highway and transit projects should also recognize and be consistent with the integration of an MIS-type approach in the planning process. This would ensure that the MIS complements, but does not duplicate the NEPA process.

2. Documentation of corridor or subarea need and analysis of modal alternatives should be accomplished during the ongoing metropolitan system-wide and subarea/corridor planning process. Such analysis should include consideration of all appropriate modal alternatives and should reflect the scale and priority of the identified need. Then the scope of a subsequent EIS should be limited to that range of alternatives considered, analyzed and narrowed during system-wide and subarea/corridor analyses. The detailed environmental analysis conducted during the project-specific EIS would be limited to the same alternatives studied as part of system-wide and subarea/corridor analysis. This approach would reduce duplication effort and link

the environmental work more effectively to the planning process and through it, the commitment of resources for construction or implementation of services.

3. The design and scope of the study should be included in the MPO's unified planning work program, where commitment to supplemental funding from the State DOT and transit operator(s) should be reflected.

4. The MIS-type identification of purpose and need and identification and analysis of alternatives should be conducted in a manner consistent with the MPO's adopted public participation procedures and other normal decisionmaking requirements of the metropolitan planning process.

#### FAIR SHARE CAMPAIGN

##### *Background*

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) provided leverage for greater involvement of local-elected officials in investing Federal transportation funds in metropolitan areas, as well as additional resources directed specifically at addressing the transportation needs of the metropolitan transportation system. Enhanced involvement and additional resources were assured through the distribution of Surface Transportation Program (STP) funds to metropolitan areas; the requirement for fiscally-constrained transportation plans and programs; a stronger role in program development and project selection; and through the establishment of new programs, including the CMAQ program, the Enhancement program and the STP program, all of which are designed to address transportation needs in metropolitan areas.

The Transportation Equity Act for the 21st Century (TEA-21) retains these programs and provisions, and increases the amount of Federal surface transportation funding by 40 percent. Local-elected official support was a key factor in ensuring this outcome. However, it now appears that despite the critical support of local-elected officials, the increase in funding directed to metropolitan areas is substantially less than the increase in overall funding. In response, the U.S. Conference of Mayors and National Association of Counties have launched a "Fair Share Campaign."

The key goal of the Fair Share Campaign is to make sure that "communities and regions get a 'fair return' on the dollars our taxpayers contribute to Washington and to our State capitals" and "to have more access to the resources delivered through TEA-21 to build the partnerships for the needed transportation investments in our communities and our regions." The goal is a fair share and greater involvement in setting the transportation investment agenda. In establishing the Fair Share Campaign, USCM and NACo, in essence, are seeking to ensure more resources are available for meeting local needs, i.e., needs on facilities and services owned or operated by local governments.

As part of the Fair Share Campaign, local-elected officials are urged to work with their Governors, State legislators and State transportation departments. To support the Campaign, mayors, county officials and others will meet in a series of forums "to share information, ideas and strategies on how to secure the transportation dollars from TEA-21 . . . and to build a broad-based collation of interests . . . that collectively support an investment agenda for our communities and regions."

##### *Issues/Recommendations*

1. Unlike revenue sharing programs designed to fill budgetary gaps, the Federal-aid surface transportation program is intended to be used to enhance transportation system efficiency, operations, and safety, with project investment priorities that are based on function and need regardless of jurisdictional responsibility. (See attached chart that indicates the wide range of highway mileage over which the states have control.) Therefore, the issue of equity must be approached from the standpoint of function and need, as opposed to geography or ownership.

2. TEA-21 offers a new mechanism that can result in greater local involvement in setting the transportation investment agenda—a requirement for the states, MPOs and transit operators to cooperatively develop estimates of funds that will be available to support plan and program implementation. To implement this requirement the states should be required to establish, cooperatively with their transit operators and MPOs, a set of procedures governing the projection of future revenues that will be allocated to metropolitan areas and non-metropolitan areas within each state. This would ensure full knowledge and disclosure of the anticipated distribution of all Federal-aid surface transportation funds, and would foster more strategic program development and implementation.

3. TEA-21 establishes a new Minimum Guarantee Program that is designed to guarantee a 90.5 percent return of relative contributions to the Highway Trust

Fund. In crafting this program, TEA-21's authors combined the numerous equity pots under ISTEA into one, and funded the new equity program at a level only slightly larger than the combined equity programs offered under ISTEA. However, the program administration rules changed to the detriment of metropolitan areas. Under ISTEA, 50 percent of the equity programs were administered as STP funds subject to all the suballocation requirements of that program. Now under TEA-21, roughly 50 percent of the Minimum Guarantee Program will "flow back" to the states as core program funds based on the relative share of those programs in each state, and would be administered according to each program's normal rules. The result is that under this new approach, the increase in STP funding which metropolitan areas will receive is substantially less than what the overall increase in funding under TEA-21. In some states, metropolitan areas will have an absolute decrease in STP funding. Any discussion of "fair share" should address this unintended consequence, and MPOs should seek a modification in the requirements governing the administration of funds under the Minimum Guarantee Program to reinstate the 50/50 balance established for the equity programs under ISTEA.

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RESPONSE BY BRIAN MILLS TO ADDITIONAL QUESTION FROM SENATOR CHAFEE

*Question 1. Accountability.*—Several witnesses in the hearing focused on the need for measuring the performance of the environmental process and to use such information to hold agencies accountable for the timeliness of their review. However, it is my understanding that transportation agencies have been reluctant to impose such performance measures on their own programs.

It is my understanding that the State DOT's, as expressed through AASHTO, have strongly opposed performance measures for their programs. I can understand a desire to not have the substance of such performance standards prescribed by the Federal Government. However, as the Federal Government is learning through implementation of the Federal Government Performance and Results Act, which requires Federal agencies to develop performance measures, performance measures focus an agency on its mission, and gives the public and Congress a way to hold the agency accountable.

What would be your organization's position regarding a provision that would require State and MPO's to establish performance measures for their programs, but without any Federal requirements as to the content of such measures, simply that the State or MPO establish them and make them available to the public.

Response. The Association of Metropolitan Planning Organizations (AMPO) advocates the use of performance measures for MPO planning. We took this position in the reauthorization debate that culminated in the enactment of the Transportation Equity Act for the 21st Century TEA-21).

We argued then that the 16 factors, which were to be considered in the MPO and State planning process under the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), should be consolidated and simplified. To that end, we support the consolidation in TEA-21, which identified seven factors, and further agree that they all must be considered in doing MPO and State planning. Most importantly, we advocate that the planning units should be the final arbiter as to which of these factors were relevant to the conditions in each of the disparate MPO regions and states.

AMPO also believes that MPOs and states should develop performance measures for those planning factors that are cogent to the transportation needs and goals in each planning region.

The important feature here is that each MPO or State should be accorded the right to define its own quantifiable performance measures. The country and its metropolitan areas are too diverse to establish a national norm.

Many of our member MPOs will be examining this issue of establishing performance measures as benchmarks for their planning and programming efforts. As a national organization we will continue to encourage them to do so. However, this is a complex and technically challenging area of endeavor. We urge Congress and the U.S. Department of Transportation to provide research and technical assistance in this field.

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RESPONSES BY BRIAN MILLS TO ADDITIONAL QUESTIONS FROM SENATOR VOINOVICH

*Question 1. Transportation/Air Quality Conformity.*—In your testimony on subject of air conformity, you talk about the mismatch between the time horizons for attainment or maintenance of air quality standards in the SIP and the 20-year time

horizon required for the long range transportation plan. Could you please elaborate on your concerns with regard to this issue?

Response. Congress enacted complementary provisions in both the Clean Air Act (CAA) and the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) that address air quality. The provisions are continued under Transportation Equity Act for the 21st Century (TEA-21). The CAA through the process labeled "conformity" requires that long range transportation plans and transportation improvement programs (TIPS) support State strategies for attaining Federal clean air standards. This policy was clarified and reinforced in 1991 with the enactment of ISTEA.

The MPO planning provisions in both the highway and transit titles recognize this obligation, and requires that MPOs in non-attainment areas develop their plans and programs consistent with the states' air quality implementation plans (SIPs). Independent of this concern over air quality, ISTEA codified a long-standing policy of the U.S. Department of Transportation (USDOT) which required that MPO long range transportation plans have a horizon of at least 20 years. This new statutory requirement, therefore, specifically defined the period for which the MPO had to demonstrate that their long range plan was consistent with the state-approved air quality attainment or maintenance plan.

The problem that many MPOs in non-attainment area are encountering results from a mismatch in planning horizons. Under the Environmental Protection Agency's (EPA) rules governing the development of State implementation plans (SIPs) and the procedures for addressing conformity of transportation plans with these SIPs, emission budget, in effect, are established for stationary, area and mobile sources. The sum of these emissions budgets must be at a level that will ensure Federal air quality standards are achieved and maintained.

The emerging problem that is evolving results from the fact that the emission levels established for stationary and area sources are for time periods substantially shorter than the required budget timetable for the transportation sector. Thus, the emissions budget for the transportation plan speaks to a period at least 10 years longer than the comparable horizon for the budgets for stationary and area sources. The practical effect of this mismatch in planning timeframes is that the transportation sector remains stable in the years that exceed the timeframes for stationary and area sources. EPA conformity regulations require that an emission budget for mobile sources cannot exceed, during the 20-year period of the long range transportation plan, the number of tons per day established for the attainment date. This policy was instituted because there is no authority to assess the impact of emissions from stationary and area sources for the period beyond the attainment or maintenance term.

This timeframe mismatch anomaly must be cured; it violates a fundamental tenet of the CAA—i.e., the strategy for attaining clean air standards is vested in the states; the states are the best judges for developing attainment strategies that are sensitive to their economic and social interests. As a practical matter, this premise permits policy tradeoffs among the different sectors. States are able to determine the relative contribution that each of the three emission categories should make to reduce overall emissions to reach attainment and maintenance status. This flexibility is denied for the years of the transportation plan that exceed the duration of the SIP. As a consequence any transportation emissions growth during this period must be solely offset by transportation measures. Moreover, if such offsets are not practical, then the MPO will have a lapse or freeze of its conformity status and Federal funding would be suspended.

The answer to this dilemma is simple, and it does not undermine the Congressional commitment to clean air. AMPO recommends that TEA-21 be amended to provide that for conformity purposes, the period for testing conformity of the long range plan is only that period of the plan that coincides with the planning horizon of the SIP.

*Question 2. Cooperative Revenue Forecasts.*—On page 3 of your testimony, you discuss concerns of cooperative revenue forecasts. Could you please explain your concern? Could you give an example of the types of disagreements that you reference?

Response. TEA-21 modifies the MPO planning process to require that for the purpose of developing the Transportation Improvement Program (TIP), the MPO, transit agencies and the State Departments of Transportation "shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation." Essentially, this was an administrative requirement contained the U.S. Department of Transportation (USDOT) regulations for implementing the planning requirements in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA).

In the vast majority of the states, no cooperative arrangement was established. Rather the State Department of Transportation, with the exception of the pass through Surface Transportation Program (STP) funds allocated to metropolitan areas over 200,000 population, unilaterally determined the amount and categorical origin of the funds and projects for their use in each metropolitan area within their state.

While the states must have certain ultimate authority in allocating apportioned highway funds, it is not unreasonable that the local governments, through their MPOs, have a process under which they can argue for what they believe is their fair share of such funds.

The concept of collaboration is inherent in ISTEA and its successor, TEA-21. However, collaboration is largely absent when it comes to the question of how highway dollars will be distributed within the states. AMPO hopes that your committee will closely monitor U.S. DOT to ensure that it promulgates strong rules to ensure that the states adhere to this Congressional policy, and just as importantly, require U.S. DOT to monitor compliance of the states and report their findings to your committee.

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STATEMENT OF JERRY W. ALB, WASHINGTON STATE  
DEPARTMENT OF TRANSPORTATION

THE TRANSPORTATION EQUITY ACT OF THE 21ST CENTURY

I am here today to talk to you about a revolution that is going on in the State of Washington. It is a revolution in thought and action pertaining to the integration of built transportation systems within the natural environment.

The Washington State Department of Transportation (WSDOT) has been at the forefront of new ways of looking at system design with respect to sensitive eco-systems driven by practice not by regulation. Its program approach has earned WSDOT a national reputation for effectively managing infrastructure development while protecting the environment. WSDOT's program is rooted in Federal legislation—the National Environmental Policy Act (NEPA) and the Transportation Equity Act of the 21st Century (TEA-21).

NEPA serves as the cornerstone of Federal environmental law. It requires Federal actions to consider the impact of those proposed activities on the people, resources and economies of local communities in which those projects are being considered. TEA-21 is equally clear. Transportation decisions must be balanced between the social, economic and environmental factors affecting infrastructure decisions. This prescription for action is the foundation of WSDOT's environmental program. That is, transportation programs must integrate its infrastructure responsibilities with a stewardship toward sensitive eco-systems.

FEDERAL LAWS

Transportation systems are a unique form of engineering dynamics. They are a fluid, interconnected system of highways, rail, aviation and marine projects that are primarily built along a linear landscape. To meet the balance test of NEPA, a State transportation agency must consider the cornucopia of Federal regulations. The challenge to transportation planners and designers is in melding the requirements of the seemingly endless numbers of environmental laws and regulations that often appear to be in direct conflict with each other.

STATE LAWS

Compounding the balancing act is the additive requirements of State environmental laws.

LOCAL LAWS

Now, in Washington, add 39 counties and 275 cities to the mix. Each jurisdiction is equipped with its own set of laws, ordinances and regulations, all adding to a "regulatory soup" that must be balanced—by transportation organizations before a project can advance. Couple this problem with the 27 federally recognized tribes in Washington all with whom treaty rights need to be considered. The possibility for conflict between Federal, State, local and tribal units of government is almost a certainty. How do you balance all these factors and maneuver through the regulatory labyrinth?

## THE BLACK HOLE OF HOW

The black hole of how is to planners and designers what the cosmic black hole is to physicists—a mass of energy that consumes all energy and life around it.

In the case of the transportation industry, avoiding the endless conflict and confusion of HOW is a considerable challenge. WSDOT has developed a new, progressive and invigorating approach to the challenge . . . it starts with a series of environmental precepts that governs our actions.

## WSDOT'S ENVIRONMENTAL PRECEPTS

To change the paradigm of conflict-based regulation and to solve the HOW of balance, WSDOT initiated a charter of conduct with respect to environmental integration into its delivery ethic. The Darth Vader of State agencies was now reaching out to use its considerable resources in a new way—partnerships to environmental stewardship. It is a seven step strategy that significantly altered how agencies interact with each other in Washington State. Simply stated, WSDOT committed to:

1. Understand each agency's mission (also seek to explain its transportation mission to others);
  2. Work toward a State position on issues;
  3. Support cooperative approaches with fiscal and human resources;
  4. Work on solutions beneficial to all;
  5. Advance solutions that are ecologically sound and cost effective;
  6. Develop agreed upon implementation strategies;
  7. Acknowledge that taxpayers expect agencies of government to work together.
- This approach requires a considerable commitment to relationship building, education and training before programs or position are advanced. It is time intensive, but the product is ultimately filled with less conflict. Decisions stick!

In addition to its new precepts, WSDOT needed to come to grips with its own identity, environmentally speaking.

## ENVIRONMENTAL IDENTITY

WSDOT is a proven leader in advocating for safe and cost effective transportation systems. It participates vigorously as an agency of government in developing effective engineering designs, construction processes and maintenance practices for such systems.

In the past, WSDOT approached environmental management in an entirely different way. It viewed environmental compliance as something you—needed to do to get a permit.—Because its actions were permit driven, WSDOT's relationship with resource agencies was one of a regulated entity subjected to the interpretations of the regulator. The problem: You do not build sustainable, balanced programs on a project by project basis.

WSDOT got it! If it was to be successful in applying environmental standards to its programs, it had to become the same type of advocate in environmental management as it was in the development of engineering standards. That is, it had to see itself as an Agency of Government, vested with a mission to delivery transportation systems in cost effective and ecologically sound ways. WSDOT had a right to be at the table of regulation development.

In this new role, WSDOT could bring its considerable fiscal and human resources to resolve one of the most complex social issues of the day—balancing environmental regulations.

## PROGRAM PILLARS

Armed with environmental precepts and a new sense of identity, WSDOT committed itself to being a leaner and greener organization. To participate in the debate effectively, WSDOT committed to developing sound environmental programs that would govern its actions. That is, it would embark on a pathway to solve the "how of balance." WSDOT thus committed to program development that:

1. Involved credible processes—where all are included in decisionmaking;
2. Strives to create Ecologically sound solutions;
3. Applied cost and benefit criteria to solutions;
4. Included outreach programs and public involvement
5. Reached conclusions that gained broad based community acceptance

WSDOT does not advocate the need for new regulations or new laws. Nor does it advocate for the elimination of laws. What WSDOT purports to do is to advocate for flexible interpretations to existing regulations. Rigid, one size fits all regulations do not work in Washington nor do they work well in other states.

Washington's solution is relationship driven and is adaptive. Its underlying mantra is that the process of environmental protection should never be allowed to kill the product of environmental protection—clean air, clean water, healthy habitat, abundant wildlife and toxic free properties.

#### WSDOT'S STATEWIDE ENVIRONMENTAL INITIATIVES

The success of WSDOT's environmental program can be measured by the bi-partisan support it has gained in advancing its new way of doing business. By bringing resource agencies, environmental organizations, businesses, non-profit groups, tribes and watershed organizations together in its role of agency of government, WSDOT has advanced 15 pieces of environmental legislation that has shaped not only how WSDOT does business, but how the entire State of Washington is implementing balanced based decisionmaking. The 15 bills involve:

Studies—three bills (SB 5894; SB 5886; SB 6063)

Programs—six bills (HB 2031; SB 5313; HB 2879; HB 3110; HB 2239; HB 1204)

Permit streamlining—four bills (SB 6061; SB 5210; HB 2496; HB 1893)

Resource Planning—two bills (HB 2514; HB 2079)

What is significant about this body of legislation is that WSDOT is considered a co-lead on managing many vital programs associated with environmental protection in the state. For example, WSDOT co-manages a successful fish passage barrier removal program with the State's Department of Fish & Wildlife and leads a multi-jurisdictional stormwater program. The State Legislature saw fit to place WSDOT in the lead of coordinating and tracking nearly 800 million dollars dedicated to the environment irrespective of agency. Truly a revolution in thinking and in action.

(NOTE: virtually all bills indicated above were passed unanimously).

#### WATERSHED MANAGEMENT IN THE STATE

All bills and actions sponsored by WSDOT evolve around watershed management. This is the predominant approach to resource management by all Federal resource agencies and with State agencies in Washington. WSDOT is active in watershed management of natural resources since it has a physical presence in each of Washington's 62 watersheds. Integration of the built environment with the natural environment in Washington State centers on watersheds.

#### THE PLAN—FAIL CYCLE

The principle behind WSDOT's environmental approach is to break the plan-fail cycle. That is, all too often, the State and Federal Government provides funding to complete comprehensive plans in water supplies, sewer system management, habitat protection, flood management, etc.

The recommendations of these planning efforts usually result in a significant price tag to accomplish the objectives. Legislatures faced with competing demands usually provide some, but not all funding. Many programs die for lack of a permanent funding source. Hence, the plan-fail cycle.

The most damaging aspect of this phenomenon is the dissatisfaction of citizens with government.

#### HOW IT WORKS!

WSDOT began to apply its approach to environmental management by starting with identifying what had already been done. It took a \$25,000 grant from USEPA and funding from FHWA's research program to develop a watershed model of resource management that integrated the built environment into environmental decisionmaking.

WSDOT used its grant to spatially identify study areas within a Watershed—Snohomish basin—by using Geographic Information Systems (GIS). As you click on the polygon, a planning area is highlighted.

#### BIBLIOGRAPHIES

A second click of the GIS mouse and an annotated Bibliography is revealed. This information identifies the funding source, the planning agency and other pertinent data to verify the legitimacy of the information being used. An important point for NEPA.

#### TABULAR DATA

A third click of the GIS mouse and a matrix of decisions within the planning study area is revealed in tabular form. This assembles data in an easy to store for-

mat so that developers of the data, both citizens and agency representatives, can see how information was gleaned from their resource plans.

#### SPATIAL REFERENCES

Click again, and the planning data is taken from the GIS tabular system and plotted onto a geographically referenced map. Decisions can be identified by a duck or a fish logo. It is easy from the spatial data to see the relationship of projects to each other throughout the basin.

WSDOT can then place its 2 year, 6 year and 20 year system plans in this spatial format. Citizens can see how their ecology projects line up with WSDOT proposed activities. This is important when considering WSDOT's financial involvement within watersheds. For example, WSDOT spends 100 million dollars per biennium on environmental mitigation.

In order to spend monies in coordination with citizen groups, WSDOT sought and received legislative authority and Federal agency approval to develop alternative mitigation strategies. This allowed WSDOT to spend its mitigation dollars on citizen friendly projects as long as the resource and regulatory agencies provide WSDOT with appropriate mitigation credits. These mitigation dollars represent a permanent funding source for basin groups. Remember, WSDOT is in every watershed of the State and therefore has potential dollars for mitigation partnerships with citizens.

#### STATE ENVIRONMENTAL DOLLARS

Using WSDOT mitigation dollars in partnership with citizen groups breaks the plan-fail cycle and replaces it with the new model of plan-succeed. However, this is not the end of the story. What is unique about WSDOT's pilot is that it revealed to the State Legislature the totality of dollars being spent on environmental issues without coordination—nearly 800 million dollars of State monies.

The Legislature recently passed HB 1204 which places WSDOT in the lead of identifying all natural resource monies being spent in the State on environmental projects. By placing proposed State environmental projects on the GIS system identified above, citizens and their projects can be linked to funding availability. Citizens are now connected to the government that serves them. The foundation of a social revolution.

#### MERGING DECISION MAKING

WSDOT's approach of merging old planning data with new planning information, then capturing this data in GIS format, and adding proposed projects with a linkage to potential funding sources, provides a sustainable decisionmaking apparatus that NEPA demands.

We believe we have eliminated the black hole of how and replaced it with a comprehensive decisionmaking model that focuses on the outcome of regulations, i.e., cost effective and ecologically sound environments.

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#### RESPONSES BY JERRY W. ALB TO ADDITIONAL QUESTIONS FROM SENATOR CHAFEE

*Question 1.* What do you think about the quality of the environmental analysis conducted for transportation projects? How can we make sure that transportation agencies do a better job in considering environmental impacts? Do you think there is some truth to the statement "we (natural resources agencies) can do it quicker, if you (transportation agencies) can do it better?"

*Response. Environmental Analysis.*—This depends to some degree on the perspectives and missions of the various agencies involved in the environmental process. WSDOT attempts to provide environmental analysis that is complete and accurate to assess the environmental consequences of actions we propose to take, and that can be used to make informed decisions that balance the needs of the public with good environmental stewardship. This does not mean that we will necessarily reach conclusions that the resource and regulatory agencies agree with, but we do always work to use the proper methodologies and provide quality analysis.

"Quality analysis" also does not, in our opinion, mean that the products produced must be "bullet proof" from any possible legal challenge. We have been shifting our thinking away from creating "perfect" documents to focusing on the decisionmaking process and providing the appropriate data to support those decisions.

WSDOT does not fund compilation of new data outside the limits of a project and we are hampered by the lack of integrated natural resource data management systems. A key action resource agencies must take to make transportation more successful, is to collaborate and take more leadership on integrated natural resource



data systems. The breakthroughs in impact analysis and decision models associated with ecosystems and watersheds have come from GIS and advances in relational data bases. We have just completed development of a user friendly computer application that provides employees access to approximately 60 environmental data sets. And, we are beginning development of a user friendly application to screen projects using environmental data.

*Process Developments.*—WSDOT has hosted several regional forums over the years to gain resource agency input on improvements to our project development process (NEPA through project construction). WSDOT and the resource agencies both had wish lists of incremental and fundamental changes that we wanted. Since then we have been chipping away at the recommendations and the building capacity for advanced environmental management, based on trust and commitment to change by all parties.

WSDOT is considered a co-lead on managing many programs that are directed at environmental protection in the state. WSDOT co-manages a fish passage barrier removal program, leads a multijurisdictional stormwater program, and is the lead of coordinating and tracking nearly \$800 million dedicated to the environment irrespective of agency. WSDOT's environmental program success can be measured by the bi-partisan support it has gained in advancing its new way of doing business. WSDOT has advanced 15 pieces of environmental legislation that has shaped how WSDOT does business and also how the State of Washington is implementing balanced based decisionmaking. The 15 bills involve:

Studies—3 bills (SB 5894, SB 5886, SB 6063)

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Permit Streamlining—4 bills (SB 6061, SB 5210, HB 2496, HB 1893)

Resource Planning—2 bills (HB 2514, HB 2079)

A few other specific improvement actions include:

(a) Better consultant agreements and oversight—over 80 percent of our EIS work is done by consultants.

(b) A shift from environmental document review specialists to retraining and increasing staff as discipline specialists in anchor positions. These discipline specialists have been assigned to be "at the table" or to "create tables" to addresses conflicts or respond to emerging issues. This recognition of expertise and knowing the regulations "better" than the regulators can translate into better practices to avoid and minimize impacts from the system planning stage forward.

(c) A commitment to biennial scoping meetings to inform resource agencies to projected workload. Project proposal summaries are presented to the agencies to obtain early input on avoidance and minimization. More resources and tools are needed to better prepare for effective these meetings and funding will be forthcoming in the 1999–2001 biennium.

(d) Resource investments have been made by all parties in process improvements related to permit streamlining, general permitting, joint applications, better construction compliance, etc., so that staff time can be redirected to early agency involvement in the planning process and the NEPA principals. Continuing to develop these process improvements will aid better integration of environmental considerations.

(e) The above efforts moved us to better scoping and reinventing NEPA has moved us to better corridor planning. Our ultimate goal is better 20 year system planning that incorporates environmental protection—clean air and water, healthy habitat, abundant wildlife and toxic free properties.

(f) A statewide or national effort must be made to identify and reward best practices, best documentation, most successful decisionmaking process, etc. Often when asked, the resource agency staff say something is not good enough but cannot provide a best example or a better methodology to arrive at an acceptable point.

*Question 2.* Do you agree with the recommendation that earlier participation is needed by interested parties and environmental agencies in order to improve the environmental review process for the development of transportation projects? How would you propose to encourage earlier participation by interested parties?

*Response. Early Participation.*—Yes, I agree with this recommendation. WSDOT has been at the forefront of developing new ways of doing business involving all project stakeholders. Our early participation commitment includes a meaningful investment in large scale, long range planning. The public is investing a lot of money in transportation and there is also a lot of money being invested in protecting the environment—the public expects agencies to work together. Congress expects all levels of government to work together and should measure future funding based on their ability to deliver. Our philosophy is prove it or lose it. Funding should be allo-

cated by showing that you are protecting the environment while delivering a transportation product.

In order to change the way we do business, we had to develop the organization and administrative capacity to deliver environmental services. A vision for capacity building was developed. Management and staff in the organization redirected resources and sought additional resources to raise the organization's ability and the states ability to address long standing concerns and obstacles. Capacity building measures addressed:

1. corporate culture (TQM, strategic re-organization);
2. development of initiatives and pilot projects
3. legislative authority (state, Federal, local);
4. new funding sources
5. marketing and public affairs
6. integration of environmental mission internally and externally
7. commitment to research and monitoring
8. use of technology
9. staff development and re-training
10. national networking
11. strategic co-planning with resource agencies

The following highlighted programs and activities are where WSDOT leads in bringing resources agencies together early in several different transportation program delivery processes including NEPA, mitigation planning, landscape and long range planning, and permit streamlining. Our capacity building is moving us toward self-certification and self-monitoring, allowing resource agencies to redirect resources to early planning.

*Reinventing NEPA.*—Approximately 2 years ago the WSDOT chartered a Transportation Decision Making Process Improvement Team with the goal of improving the application of NEPA requirements during the early stages of long-range transportation planning projects. This project has been a collaborative effort between WSDOT, FHWA, State and Federal resource and regulatory agencies. Some of the highlights of this new process include:

- Integrating a planning and NEPA by moving NEPA earlier in the planning process.
- Creating a Project Management Team (PMT) of WSDOT and FHWA to manage the project logistics.
- Improving agency coordination by creating a Steering Committee with representation from resource and regulatory agencies, affected tribes, the public and affected local governments (at a minimum) additional members selected by the Steering Committee as defined below.
- Improving agency and public input by establishing consensus points for various decisions made by the Steering Committee members throughout the new process.
- Establishing concurrence points for agencies, local governments and tribes with jurisdiction over certain project and permitting decisions. The concurrence points require signed approval by these agencies and tribes with jurisdiction. If approval signatures are not received by a group member, the process will stop until concurrence is reached.
- Improving public participation in the decisionmaking process through development of a public outreach plan approved by the Steering Committee.

In June 1998 the proposed new process was presented at a National Review Meeting consisting of other Federal and State agencies including PennDOT, ORDOT, CalTrans, EPA, Corps of Engineers, US Fish and Wildlife, as well as Washington State agencies such as Fish and Wildlife and Department of Ecology. The outcome of this 3-day meeting included a revised process and identification of three pilot projects which are currently underway.

We hope by using this process we can develop a sense of trust, develop a forum to define what everyone's interests are, develop pilots, evaluate the results, and test the results before going State or nationwide. This new process will also obligate all parties to help develop the outcome and analyze if the outcome is being accomplished.

*Mitigation Planning—Wetland Strategic Plan Implementation (WSPI).*—The WSPI project benefits salmon by seeking cost efficiency and maximum ecological benefit from wetland mitigation. Wetlands play a critical role in salmon life cycles by providing refuge from swift currents, rearing habitat for juveniles where they can escape from larger predators, water quality improvement, and food production (insects). WSPI's focus areas include:

- partnering workshops for agencies, tribes, environmental organizations and the public, where mitigation/restoration needs can be presented and partnership oppor-

tunities identified. Partnering workshops focus on specific watersheds, and allow groups to work cooperatively on restoration and mitigation efforts.

- wetland mitigation banking, which allows mitigation sites to be selected in the most beneficial parts of a watershed,
- improved wetland functions assessment, which includes recognition of habitat features critical to fish,
- wetland preservation policy guidance to promote preservation of existing, high quality/high function wetlands for mitigation credit,
- coordination and partnering with other agencies and organizations to achieve maximum environmental benefit from mitigation and habitat restoration projects, and

*ESA Programmatic Permits.*—Programmatic Biological Assessments (PBA) are being prepared on a region by region basis for species under the jurisdiction of USFES and NMFS. Each PBA will be in effect for two to 5 years. The PBA lists the various types of projects and activities that WSDOT will conduct in the region for the time period and addresses the standard types of impacts that they may have on listed species. It also lists various conservation measures that will be used to eliminate or reduce impacts to the listed species. Projects that can not meet the conditions and conservation measures will not be addressed under the PBA, but will be addressed in an individual biological assessment (BA). The PBAs are expected to reduce the amount of time it will take to meet our Endangered Species Act Section 7 obligations. Over 80 percent of WSDOT projects are expected to be addressed under the PBAs. The remaining projects will require individual BAs.

*Watershed Planning.*—WSDOT has adopted a watershed approach out of a realization that transportation infrastructure planning embodies complex and inter-related natural resource concepts like flood prevention, wetlands protection, erosion control and stormwater treatment. WSDOT participates in local planning efforts started under Washington's watershed Planning Act and Salmon Recovery Act throughout the state's 62 watersheds. Full realization of benefits from the watershed approach are being explored in one pilot watershed. The Snohomish river basin, one of the fastest urbanizing regions of the state, is providing a platform for WSDOT to gather data on land use, water quality, fish passage barriers, hazardous waste sites, effectiveness of stormwater treatment Best Management Practices (BMPs), and other environmental variables that need to be understood at the watershed level.

WSDOT has identified these essential components for effectively integrating natural resource stewardship with transportation infrastructure management at the watershed level:

- Reallocation of staff time to planning and process improvement, including internal education about watershed processes and the interconnectedness of land use actions.
- Mapping of all transportation projects and natural resource information together throughout the watershed, including mitigation needs and opportunities, retrofits identified to meet current standards for water quality, flood protection and fish passage.
- Subsidize data gathering, mapping, and monitoring efforts that solve larger resource problems in the watershed while supporting transportation planning, permitting and mitigation.
- Host or participate in watershed planning activities.
- Provide scoping meetings for mid- and long-range planning, including budgets.
- Review the project development process to determine how watershed considerations can fit into the transportation planning process.
- Identify legislative and funding authority to expand your efforts or deal with gaps.
- Maintain communications with all internal and external stakeholders.

*Alternative Mitigation.*—This policy document produced cooperatively by WSDOT, WDFW, WSDOE, and Tribal representatives provides guidance for evaluating mitigation options and promoting a net environmental benefit over standard mitigation. This is the product of HB 2496, and promotes decisions based on prioritization of resources on a watershed level. An example would be the Maryhill Mitigation site. WSDOT collaborated with the Washington State Parks Department to replace the minimal functions of nine isolated wetlands with a larger wetland located at Maryhill State Park. The Maryhill wetland project provided an important connection with the Columbia River providing off channel rearing habitat for salmonids. It also implemented a long standing plan of the Parks Department while saving taxpayers' money in expensive land acquisition costs associated with project specific mitigation proposals for the impacted wetlands.

As a member of the Washington State Salmon Recovery Funding Board, we can track when Federal and State funds are being invested and align our mitigation opportunities and investments.

*Maintenance.*—WSDOT maintenance office has created a water quality specialist position that implements environmental policies within WSDOT maintenance and is creating new guidance which specifically addresses the ESA Section 4(d) protective regulations of threatened and endangered species.

The WSDOT Bridge Maintenance has also created an environmental position which implements environmental policies for bridge maintenance related activities including:

- Identifying standards and BMP's for bridge scour repair related activities through the development of a 5-year General Hydraulic Project Approval (HPA) permit with Washington Department of Fish and Wildlife (WDFW). The development of this document will provide the standard for achieving consistency with the Endangered Species Act for bridge scour repair related activities.
- Identifying standards and BMP's for bridge washing and painting related activities through the development of a 5-year General HPA permit with WDFW. The development of this document will provide the standard for achieving consistency with the Endangered Species Act for bridge washing and painting related activities.

*GIS and Information.*—WSDOT has made a strong commitment in staff and resources to maximize the use of Geographic Information System (GIS) technology. This technology is used for effective project evaluation as well as evaluating projects on the 2-, 6-, and 20-year plans so that ESA issues can be addressed at the early stages of project development. An environmental workbench application has been developed using a GIS interface to reference data by subject or location for use in the environmental overview of the 2-year project summaries. WSDOT is working on a process in which GIS can be used in the environmental overview of 20-year projects.

WSDOT has participated on an interagency cooperative effort along with Batelle and tribal governments, to develop the Integrated Natural Resources Data System (INRDS). This web based system will allow users to access, sort, and manage state, regional, and sub-regional watershed information including salmon habitat, fish escapement, land uses, GIS spatial data layers, transportation projects, resource prioritization and other information that enables good decisionmaking and project planning.

WSDOT Environmental Affairs Office GIS staff are currently developing the "ESA Screen". This screen will be used internally by overlaying salmon data and proposed road project GIS layers to predict impacts to aid in project planning and prioritization.

WSDOT is cooperatively seeking a grant with PennDOT from National Cooperative Highway Research Program (NCHRP) to develop the Environmental Management Information System (EMIS). This system is designed to maintain and track environmental information including cost accounting and risk management decision tools for evaluating environmental elements of proposed, active, and completed transportation projects and maintenance activities. The proposed research would develop and implement an EMIS, including various decision/support tools for WSDOT and a generic protocol that could be used by other transportation agencies to develop similar systems.

WSDOT has received Phase I of a partnership grant with the Washington State Office of Archaeology and Historic Preservation (OAHP) and the Washington State Department of Natural Resources for the Washington Resource Protection Program (WRPP). WRPP is a custom-designed cultural resource management tool to provide scientific electronic analysis of data related to known cultural resources. It will provide a centralized location for cultural resources data in a GIS system to allow WSDOT engineers and planners to make informed decisions based on identification of cultural resource concerns, particularly in pre-planning stages. The GIS data layers will be combined to identify high, medium, and low probability areas to predict occurrences of unrecorded resources. The GIS system will be constructed in a format compatible with existing WSDOT layers. Phase I will concentrate on refining OAHP's GIS system architecture, updating site data, acquiring additional natural resource layers, and designing a WSDOT/OAHP information exchange process.

*Resource Agency Staffing and Planning Support.*—Existing conditions are that the resource agencies are not able to meet the commitments made in interagency agreements for transportation projects; the problem will become more severe as a result of the increased workload imposed by the endangered species listings in Washington State and the additional transportation projects as a result of Referendum 49. The cost and time required to deliver an effective transportation program will continue to increase.

Thus WSDOT is funding 13 staff at other resource agencies to support the delivery of transportation projects. The following reflects the number of employees as disbursed throughout resources agencies:

- United States Environmental Protection Agency—1
- Army Corps of Engineers—2
- National Marine Fisheries Service—4
- United States Fish and Wildlife Service—2
- Washington State Department of Fish and Wildlife—2
- Washington State Department of Ecology—2

Implementing the NEPA Transportation Decision Making Process Improvement requires that resource agencies become full partners in the transportation decision-making process; partnership demands a significant commitment on the part of the resource agencies to early coordination, steering committee participation, environmental document review, providing written concurrence and making final regulatory decisions, as well as processing the 'pipeline' transportation projects.

Staff dedicated to the delivery of transportation improvements at the target agencies will ease the workload burden for all applicants for early coordination on transportation, permits, ESA species listings, or environmental review. Projects will be delivered in a timely manner; agency coordination will be improved, and better transportation decisions will be made as a result. While this effort is focused on transportation projects, all projects and programs should see a benefit.

We are undertaking strategic planning with two State resource agencies, WSDOE and WDFW to ensure alignment of both our major initiatives—this ensures a collaborative approach and a commitment to implementability—programs on the table right now include data base and GIS projects as well as strategic thinking on interim and long term implementation actions to address the raising of the bar to protect and recover salmon, e.g. stormwater summit.

*Question 3.* Do you think there is a tension between providing flexibility and achieving the certainty in the process that was one of the goals of these provisions?

*Response. Certainty vs. Flexibility.*—There is always a certain amount of tension between certainty and flexibility. On one end of the pendulum are guidance that is so defined that it provides great certainty, but limits the ability to respond creatively to the intent of the regulations in response to the specific issues of a particular project. On the other extreme is guidance that is so flexible that there are no obvious benchmarks for measurement and little consistency. The challenge is to provide a lot of guidance about the intent, while allowing flexibility in how to meet the intent. Trust, by virtue of all the capacity building activities, provides the foundation to have a dialog on certainty vs. flexibility. We are forcing the issue by defining these terms from the public infrastructure perspective while the resource agencies are defining what they mean from an environmental protection perspective. We move the debate when these thoughts are transformed into performance measures that deliver both perspectives.

This has forced us to come up with new ways of doing business. There is certainty in process because we have rethought and offered a revised process framework. We have committed to re-examine the framework and make adjustments (flexibility) as needed to accommodate the wide variations in large scale planning projects. Greater emphasis and resources may be expended at different points in the process to accommodate widely varying circumstances. There is certainty that there is more public involvement in arriving at a process and flexibility to shift resources to optimize alternatives analysis or alternative mitigation options. The flexibility allows a focus on outcomes or performance measures.

Where there have not been investments in building organization capacity and trust, then you are left with requiring certainty in process to support the lowest common denominator; a role of Congress to always have a national default position. This attempts to manage using fear of liability and conflict management as the driving forces, at the expense of innovation and creative initiative.

Our investment in performance measures has taken many forms. For NEPA it been by defining concurrence points, scoping, and by agreeing on the specific and adequate amounts of data that will support particularly decisions, rather than merely on the production of documents. We have developed guidelines for discipline reports; resource agency MOUs (stormwater); and guidelines for streambank protection, mitigation monitoring, and wetland banking. In many aspects of statewide environmental management WSDOT is the recognized innovator in coming up with creative ways to integrate environment, social, and economic values. This has put us in the position to be a leader in responding to TEA-21.

STATEMENT OF TIM STOWE, VICE PRESIDENT FOR TRANSPORTATION AND PLANNING,  
ANDERSON & ASSOCIATES, INC.

Good morning, Mr. Chairman and members of the subcommittee. My name is Tim Stowe, and I am Vice President of Transportation and Planning for Anderson and Associates, a consulting engineering firm in Blacksburg, VA. I also serve as Chairman of the Transportation Committee for the American Consulting Engineers Council, whom I am representing today. I am delighted to have the opportunity to address you on behalf of ACEC, the largest organization of engineers in private practice. ACEC members include more than 5,700 independent engineering firms nationwide. These firms employ a quarter-of-a-million design professionals and design more than \$150 billion of private and public works each year.

ACEC members are deeply involved with virtually every aspect of our nation's transportation system, designing roads, bridges, transit and rail systems, and airport and runway facilities in every state. Our member firms also have a strong sense of environmental stewardship and public safety, regularly engineering solutions for the clean-up of Super Fund sites, for safe drinking water, or for the creation of new wetlands.

Mr. Chairman, I believe you're familiar with the chart I have with me today. It was produced a few years ago by the Ohio Department of Transportation, and it illustrates the steps involved in getting a typical highway project from conception to groundbreaking—a process Ohio DOT says often takes 8 years. This chart was produced during the years of ISTEA. During the reauthorization debate of 1997 and 1998, Congress and the transportation community agreed this was unacceptable, and so TEA-21 included several provisions designed to streamline the process and eliminate excess cost, delay, and uncertainty. In many ways, the issues before us today can be reduced to a simple question: "How far have we come toward improving upon this process?"

I wish we had more good news to report, but I'm afraid we don't. It's going to take persistence by Congress and cooperative determination among the Federal agencies to streamline this process. And it's not going to come easily. This is why we're delighted that the subcommittee is conducting this series of oversight hearings on TEA-21—and especially this particular hearing on environmental streamlining and project delivery. We hope this regular oversight continues until you are satisfied the system is working as intended.

This morning I'd like to offer what we believe are three pillars of a successful implementation of environmental streamlining under TEA-21:

- The need for quick action on a memorandum of understanding among the Federal agencies.
- Use of existing best practices—rather than new pilot programs—as a model for implementing environmental streamlining
- The need for an objective measurement system to assess our progress toward streamlining.

*First, the need for high-level agreement among agencies.*—Under Section 1309 of TEA-21, Congress specifies that "the Secretary [of Transportation] shall at the earliest possible time identify all potential Federal agencies that have jurisdiction . . . over environmental-related issues . . . and . . . shall jointly develop and establish time periods for review." The Department of Transportation and these agencies are then expected to incorporate their discussions into a national Memorandum of Understanding.

A prompt, cooperative, national-level agreement among the agencies is a critical first step and will set the right tone for similar regional, state-by-state, and possibly even project-level agreements. I'd like to commend the Federal Highway Administration and Federal Transit Administration for the work they have done to engage stakeholders from across the country on these issues. However, while Congress expected FHWA and FTA to take the lead in this effort, it made clear that the other agencies are to be actively involved and accountable as well. As we approach the 1-year anniversary of TEA-21, we believe the time has come to stress the urgency of completing this Memorandum of Understanding and follow-on agreements without further delay.

*The second pillar is to avoid steps—such as new pilot projects—that would slow our progress toward streamlining or actually move us in the opposite direction.*—We have two concerns about using pilot projects for environmental streamlining. First, we believe that they would substantially delay the implementation of the law because the results of a pilot are typically not apparent for several years. While the goals of these proposals may be laudable, pilot projects are not called for in the legislation and do not meet Congress' clear objective of streamlining and accelerating the environmental review process.

Second, it is clear that some groups would use pilot projects to broaden the scope of Section 1309 well beyond congressional intent. The "Options for Discussion" paper circulated by the Department of Transportation describes several proposals that seem driven by a desire to update and broaden the role of the National Environmental Policy Act, or NEPA. However, reform of NEPA is not called for in TEA-21, and such an undertaking should be separated from the process to avoid unnecessary delays in the implementation of the new law.

In short, we believe the regulating agencies should submit every implementation proposal to the litmus test of congressional intent. Congress was clear that the planning and environmental processes should be simplified and streamlined, without weakening our commitment to sound environmental policies. Proposals that would make these processes *more* complex or *more* time-consuming—or that make it more difficult to implement transportation improvements where the purpose and need is well established—should be quickly eliminated.

Rather than sponsoring an array of new pilot projects, we suggest using previous successes as a benchmark for future action. The Federal highway program is not new, and while the project delivery process as a rule has been slow and burdensome, there have been occasional projects that have worked well. If we collect information on those projects that have exhibited coordination and streamlining and then pattern our action plan on these examples, the American public could hope to see results of streamlining in a matter of months, rather than years.

*The third pillar is the need for an objective measurement system to assess our progress toward streamlining.*—We feel strongly that there must be a well-defined measurement system in place as soon as possible to establish a baseline to track our progress toward environmental streamlining. In the absence of such a measurement system, all parties can be expected to use anecdotal evidence that casts their position in the most favorable light, and there will be no way to sift through the conflicting claims and counter-claims to draw valid conclusions about our progress.

We must first know where we are today if we hope to know next year whether we've improved. We believe a highly regarded independent organization using proven survey research methods could establish a baseline against which all future progress can be referenced. Statistically valid reports will be far more useful to the affected parties, including Congress, than anecdotal assessments of our progress or lack of progress toward streamlining.

The system would be something of a poll of both project sponsors and project reviewers, most likely on a regional basis. The poll might ask sponsors whether they are getting prompt responses from the reviewing agencies or ask them to gauge the agency's willingness to suggest constructive alternatives. The poll might ask agencies whether the information they are receiving from the sponsors is thorough and accurate. Subsequent surveys could track changes in how the participants view the process and also track how well each group is implementing changes to which it had previously committed. Mr. Chairman, our submitted testimony offers some additional details of how this objective measurement system might work.

#### LEGAL IMPACTS

We at ACEC are keenly aware that our mutual efforts at streamlining are affected by more than just legislative and regulatory activity. Recent court action in the Woodrow Wilson Bridge and EPA cases could also have an enormous impact on the delivery of the program.

A brief word about the EPA case: we believe the EPA, through its grandfathering rule, has been operating in good faith to balance national air quality goals with legitimate transportation needs. At this time when virtually everyone in the transportation community agrees we must accelerate and streamline project delivery, it is ironic that these court decisions would move the process in the opposite direction. It seems likely that Congress will soon address these issues, and we would support Senator Bond's efforts to codify EPA's 1993 conformity rule, which honors the spirit of the Clean Air Act while recognizing the public's legitimate need for safety and mobility.

#### CONCLUSION

In TEA-21, Congress mandated that we find ways to improve the process of delivering transportation projects without jeopardizing sound environmental policies. Our collective goal should be to make the process work better and faster, period. To quote from the USDOT document *Listening to America: Implementing TEA-21*, "Doing it right and doing it quickly are not necessarily at odds."

We are hopeful that the Department of Transportation will be in a position, by the first anniversary of TEA-21, to report to Congress that serious progress is being

made on environmental streamlining and project delivery. In the meantime, we thank you for your continued involvement and look forward to working with you to ensure a fair and timely implementation of the law.

At the appropriate time, I'd be happy to try and answer any of your questions.

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#### ENVIRONMENTAL STREAMLINING: MEASURING RESULTS

The following is a proposed approach to quickly measure the impact of TEA-21 Environmental Streamlining provisions. This approach is not intended to be the only measure of success or failure.

For any of the proposed streamlining processes to succeed, the sponsoring, regulating and resource agencies must work together in a proactive and constructive way. ACEC proposes to measure in a statistically valid way whether or not the parties to streamlining are participating in a manner conducive to its success. The measurement system would use proven survey research methods conducted by a competent organization of high integrity and objectivity.

The proposal is to use such a survey research process to establish a baseline against which future progress can be referenced for reports to affected and interested parties, including Congress. The following are key points of this approach:

- There is no system of measurement either in place or imminent that can provide objective information about the effects, if any, of streamlining improvements contemplated under TEA-21. In the absence of a reasonable and accepted measurement system, all parties can be expected to use anecdotal information that will cast their position in the most favorable light. There will be no rational way to sift through the potentially conflicting claims and counter-claims and draw valid conclusions about our collective progress.

- It is questionable whether transportation and environmental agencies will soon reach agreement on objective and measurable criteria for good performance (such as total elapsed time between permit application and decision, percent attendance at key meetings, response times to letters, etc.) Even if the transportation and environmental agencies were able to reach consensus on measures of good performance, it would take several years to gain sufficient experience and gather sufficient data from which valid conclusions could be drawn.

- The critical factors for streamlining success involve attitudes, degree of cooperation, willingness to suggest constructive alternatives, ability to forge reasonable compromises and the like. These are best measured using proven survey research techniques in which completely objective, unbiased questions are asked of a subset of the involved population. The questions asked in such a survey must be designed to get to the core of the streamlining issue and should be reviewed in advance by all affected parties. The survey should be conducted in the next 4 to 6 months to develop a good baseline for future comparisons and should be designed to discern differences among regions of the country.

- An important advantage of survey research techniques is the ability to detect changes (or the absence of change) much sooner than could be achieved attempting to measure project by project case study results. For example, it could take a year or more to attempt to reach agreement on the measures, and then 3 to 5 years to gather sufficient data by which to draw valid conclusions about whether the lengthy, multi-year environmental process has indeed been streamlined.

- A key question involves who would initiate and oversee the survey research process. It is suggested that the Secretary of Transportation might convene an inter-organization advisory task force, chaired by an appointee from outside of the transportation community. The chair should be a person known for their fairness and facilitating skills. The advisory task force would include representatives of FHWA, FTA, EPA, COE, USFWS, AASHTO, ARTBA, and ACEC. The group would solicit proposals from among the nation's most highly regarded survey research organizations and select the best. The group would also review the content and the results of the survey process, and ensure that the results are reported with dispassionate objectivity. Funding for the environmental streamlining assessment program should come from the US DOT budget.



AMERICAN CONSULTING ENGINEERS COUNCIL,  
Washington, DC, March 29, 1999.

Mr. SHELDON EDNER,  
Office of Metropolitan Planning,  
Federal Highway Administration,  
Washington, DC.

Mr. CHARLES GOODMAN,  
Office of Planning Operations—TPL,  
Federal Transit Administration,  
Washington, DC.

DEAR MR. EDNER AND MR. GOODMAN: On behalf of the American Consulting Engineers Council, I am writing to submit formal comments and recommendations for implementing the planning, and environmental provisions of the Transportation Equity Act for the 21st Century (TEA-21). The Federal Highway Administration and Federal Transit Administration are to be commended for the work they have already done through several months of outreach sessions. ACEC was an active participant in these sessions, and we are now pleased to respond to your request for written comments and viewpoints from key stakeholders.

As was stated in the *Federal Highway Administration and Federal Transit Administration TEA-21 Planning and Environmental Provisions: Options for Discussion* (hereafter referred to as *Options for Discussion*) there are many "cross-cutting" issues that involve both the planning process and the National Environmental Policy Act. While it is difficult to draw neat boundaries around these complex and interrelated issues, we should make every effort to address only those issues that were addressed by Congress in the TEA-21 legislation. Indeed, this is our only hope of completing Federal guidance in a timely fashion. The *Options for Discussion* contains several proposals that seem to be driven by a desire to update various NEPA requirements. However, the updating of the overall NEPA rules and regulations is not called for in TEA-21 and such an update should be separated from the TEA-21 rulemaking process to avoid unnecessary delays in the implementation of the new law.

In short, we believe FHWA and FTA should submit every proposed change to the litmus test of Congressional intent, being careful not to conflict with or exceed that intent. For example, Congress is clear in its message that planning and environmental processes need to be simplified and streamlined, without weakening our commitment to sound planning and environmental requirements. Proposals considered in the *Options for Discussion* that make these processes more complex or time-consuming or that make it more difficult to implement transportation improvements where the purpose and need is well established, should be quickly eliminated.

With respect to the provision of TEA-21 that eliminates the Major Investment Studies (MIS) as a separate requirement, we highly recommend that the regulations stay focused on what Congress intended: the elimination of costly, time-consuming and duplicative efforts that provide no additional value. ACEC supports the position of AASHTO on this topic. The NEPA process is an existing comprehensive process that integrates social, economic, and environmental concerns and allows for thoughtful, timely, and responsible public decisions. As stated by AASHTO, this process should be protected, and the MIS provisions that are not already accomplished in other activities should be carried out under the planning activities, not the NEPA activities. The key is to provide sufficient flexibility to promote common sense solutions that are consistent with Congressional intent. A copy of the AASHTO position on BIAS Integration is attached.

No issue will receive more scrutiny from stakeholders and from the Congress than environmental streamlining. Here again, the intent of Congress seems clear: find new ways that demonstrate the benefits of concurrent processing, faster responses and earlier involvement, while maintaining the integrity of the environmental review process. To quote from the USDOT document *Listening to America: Implementing TEA-21*, "Doing it right and doing it quickly are not necessarily at odds." It is essential for national level agreements to be reached quickly, and for these agreements to serve as guides for regional, or state-by-state, or possibly project level agreements. It is also critical for the process to produce positive changes within the next year. We should avoid steps such as pilot projects, which are not called for in TEA-21 and whose general benefits and effects would not be known for years.

We believe there needs to be a clear and accepted measurement system to assess the streamlining improvements required by TEA-21. In the absence of such a system, all parties can be expected to use anecdotal evidence that casts their position in the most favorable light, and there will be no way to sift through the conflicting array of claims and counter-claims to draw valid conclusions about our progress.

With this in mind, we offer the following specific suggestions for implementing environmental streamlining:

- Define general goals and measures of effectiveness and provide policy guidance in a national MOU to be finalized within the next few months. Such an MOU could be used to foster the development of regional, State and project MOUs, which in turn translate goals, policies, and measures of effectiveness into specific performance objectives.
- Provide an enhanced project scoping process through which a project-specific could be developed, including a strengthened Purpose and Need statement development process, project schedule, and early agreements between parties.
- Gather baseline data as soon as possible on both quantitative and qualitative measures, using survey techniques that stakeholders agree are fair and unbiased. Data should also be gathered on past case studies that key stakeholders agree are models of success. This baseline could then be used for comparison of future findings.
- From the results of the data collection and surveys, identify success stories (what works) and problem areas (what doesn't work).
- Establish peer-to-peer teams from success areas to offer guidance and assistance in problem areas.
- Provide an annual report to stakeholders and to Congress on our progress toward environmental streamlining.

Another important change in TEA-21 allows the use of a single consultant for both environmental and final design work. Fortunately, the legislation is clear and simple on this point, requiring in such cases that a review of the objectivity of the environmental work be performed by the state. It is incumbent upon the State to conduct the review and document the results in a manner consistent with the state's procedures. It is also important that all recipients of Federal transportation dollars enjoy the benefits of this more flexible contracting arrangement. This should include transit and toll agencies, authorities and other such units established by the states for the purposes of planning, constructing, or operating transportation systems.

We have the opportunity with TEA-21 to improve the process for delivering transportation projects without jeopardizing environmental policies. The goal is clearly not to diminish the significance of the environmental requirements, but to make the process work better. This point was underscored by many in the testimony presented to Congress prior to the enactment of TEA-21 as well as in the Department's several outreach sessions. It is also reflected in the position papers recently developed by AASHTO, which the ACEC Transportation Committee has endorsed.

We are hopeful that the Department of Transportation will be in a position, by the first anniversary, of TEA-21, to report to Congress that serious progress is being made on environmental streamlining. For this to occur, however, the environmental agencies and other stakeholders must truly embrace the spirit and intent of the streamlining provisions and work together toward their implementation.

We look forward to continuing to work with the Federal Highway Administration and Federal Transit Administration in developing the important rules and regulations for TEA-21. Please do not hesitate to contact me or Chip Wallace, ACEC's Director of Transportation Programs, if we can be of further assistance to you.

Sincerely,

HOWARD M. MESSNER.

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RESPONSES BY TIM STOWE TO ADDITIONAL QUESTIONS FROM SENATOR CHAFEE

*Question 1. Quality of the Environmental Analysis.*—What do you think about the quality of the environmental analysis conducted for transportation projects? I have heard concerns about the need for some agencies to act more promptly, but after the recent Wilson bridge decision which found the environmental analysis for this very large and visible project sorely lacking, I'm more concerned about ensuring the quality of the environmental analysis. How can we make sure that transportation agencies do a better job in considering environmental impacts?

One of the comments that my staff has heard about this issue from the natural resource agencies—is "we can do it quicker, if you (transportation agencies) can do it better." Do you think there is some truth to that statement?

Response. In our view, when planning and designing a transportation project, preservation of the environment is second in importance only to ensuring the safety of the traveling public.

The engineers, planners and scientists who perform these environmental analyses are leaders in their respective fields and use cutting-edge analytical tools and methodologies to conduct their work.

Appropriately, the environmental reviewing agencies are also provided multiple opportunities to review the work prepared by these professionals. In the case of the Woodrow Wilson Bridge that you mentioned, there were eight concurring agencies and 37 commenting agencies that were either actively involved, concurred, or were provided opportunities to comment on the environmental analysis for the project. While this large number of review agencies does not hold true for all projects, the National Environmental Policy Act (NEPA), combined with myriad other Federal laws and regulations, ensures that the environmental agencies review, comment, and concur with environmental documents prepared for transportation projects.

Given the multiple reviews that environmental documents undergo from both project sponsors and the reviewing agencies, it seems clear that the system provides ample opportunity for deficiencies to be addressed, should they exist. We feel that in the overwhelming majority of projects, the environmental analysis fully addresses the impacts and complies with both the spirit and letter of all environmental laws and regulations. The ruling of one Federal judge cannot negate this steady performance.

Still, some misinformation and miscommunication does occur from time to time. That's why we're pleased your committee and the USDOT are strongly considering ACEC's idea to survey both project sponsors and project reviewers about the quality of environmental documents, the timeliness of the process, the willingness of all parties to participate constructively, and a range of other issues. Senator Voinovich's questions (attached) deal more with these issues, which formed the core of our April 29th testimony.

*Question 2. Early Participation.*—One of the recommendations that I have heard in regard to improving the environmental review process is that we need to have *earlier participation* of interested parties and environmental agencies in the development of transportation projects. Do you agree with this recommendation? How would you propose to encourage earlier participation by interested parties?

Response. We wholeheartedly endorse early participation of interested parties in the environmental review process. One of the challenges to early participation has been the limited resources of the reviewing agencies. Consequently, input is often provided by the agencies after key project decisions have been made, sometimes resulting in significant project delays and expense. Congress made a clear statement in TEA-21 when it provided in Section 1309 that project sponsors could make available to the reviewing agencies the resources necessary to meet any time limits established under the new streamlining requirements. Typically, project sponsors will choose to fund additional resource agency staff to assist with peak workloads associated with transportation projects. While it will take more time to fully evaluate the impact of this provision on actual practice, we are hopeful it will serve as a catalyst for much earlier participation by all interested parties.

In short, we believe that the transportation agencies should continue to make a sincere and persistent effort to involve the environmental agencies at the beginning of a project (i.e., during the purpose-and-need and scoping-of-alternatives phases). On the other hand, once the reviewing agencies receive this invitation to participate—particularly if it's accompanied by financial support from the project sponsor—they should be expected to respond in a reasonable and established period of time, after which they should forgo the ability to take action.

*Question 3. Certainty vs. Flexibility.*—Do you think there is a tension between providing flexibility and achieving the certainty in the process that was one of the goals of these provisions? A more detailed process has the potential to give what I perceive is a clear desire for certainty in the process with specific rules and time lines. A less detailed and more flexible approach, in particular a process issued in guidance form, would appear to be in conflict with the desire for "certainty."

Response. The National Environmental Policy Act is a disclosure process designed to inform the public about the environmental impacts associated with a proposed action. We know of no certainty associated with the outcome of any part of this process, either under previous surface transportation measures or as a result of TEA-21. We do, however, see a great need for flexibility. As has been stated many times before, when it comes to an environmental analysis, one size does not fit all. The natural environment varies significantly from region to region, and the environmental considerations vary widely based on a project's size, complexity, and location. These two factors alone illustrate the need for flexibility in the process.

*Question 4. Accountability.*—Your testimony supports implementation of a performance measurement system for the environmental review process for transportation projects.

Would you support a Federal requirement for State's and MPO's to develop performance measures for all aspects of the transportation system and goals? Such a requirement could be structured without any restrictions on the content of the measures, rather, simply that such performance measures exist and the results are made available to the public as part of the planning process.

Response. Given that the broader issue of national performance measures is currently a subject of debate between the states and the Federal Government, we believe the American Association of State Highway and Transportation Officials would be the best source for comments on this matter.

#### RESPONSES BY TIM STOWE TO ADDITIONAL QUESTIONS FROM SENATOR VOINOVICH

*Question 1a. In your testimony you propose survey research to show how effectively streamlining processes are working. What will be your baseline?*

Response. Since the positive effects of environmental streamlining have not yet occurred, the baseline would be the initial survey, assuming it can occur relatively soon (by this fall at the latest.)

*Question 1b. Who do you propose will conduct this survey research?*

Response. A highly regarded national survey research organization, selected through a competitive, quality-based process. To be effective and credible, this process must be managed by an organization that is widely known to be both competent and objective. The National Academy of Sciences or a federally sponsored research institution would be strong candidates.

*Question 1c. What performance measures will you look for to provide you this information?*

Response. The performance measures we will look for are qualitative in nature. Information would be obtained through a series of questions in an annual survey of both project sponsors and project reviewers. For the reviewing agencies, survey questions might focus on:

- Willingness to participate early in the process;
- Attendance and contributions at meetings;
- Willingness to offer positive solutions;
- Ability to provide clear answers;
- Level of coordination with other environmental agencies (Federal and state) to avoid unnecessary duplication of effort;

- Technical competence;
- Adhering to statutory and regulatory requirements (not raising the stakes);

For the project sponsors, survey questions might focus on:

- Early preparation in developing purpose-and-need statement and project scoping;
- Solicitation of early involvement from environmental reviewing/permitting agencies;

- Willingness to consider a full range of reasonable alternatives;
- Technical competency;
- Keeping the spirit of avoiding, minimizing, or mitigating environmental impacts.

In response to questions on each of these topics, respondents would assign ratings:

- (a) Almost always exceeds reasonable expectations;
- (b) Usually performs in a reasonable manner;
- (c) Mixed results—occasionally satisfactory but often falls short of the mark;
- (d) Consistently marginal or sub-marginal in fulfilling what is reasonably expected;
- (f) Systematic problem with performance well below acceptable standards.

*Question 2. Do you believe that modeling or survey research will be able to adequately sample the needs of all 50 states?*

Response. We recommend that the research focus on multi-state regions rather than individual states, as it is unlikely that there will be enough recent transportation projects requiring substantial environmental processing to produce statistically significant results on a state-by-state basis. Determining the sampling requirements needed to produce statistically reliable information would be a first order of business for the survey research organization.

*Question 3. What are your views on the benefits of pilot programs?*

Response. We would certainly support pilot programs that are "vanguard initiatives" of innovative thinking or new methodologies that simply need to be rolled out on a smaller scale before they can be exported nationwide. However, we know that

some opponents of environmental streamlining would like to use pilot projects to postpone or complicate its implementation. We would be very concerned if new pilot projects were undertaken to study how environmental streamlining might best be implemented, particularly if we would be expected to wait for the results before we proceeded. The Federal highway program is not new, and we feel the transportation community already has vast knowledge about what made certain past projects successful. If we work to identify and highlight these model practices, we could start to replicate them elsewhere and begin reducing delays, conserving taxpayer dollars, and speeding project completion in a matter of months, rather than years.

*Question 4.* I am hearing a lot of support for getting people to become involved in the process early. Do I hear an overall consensus view that this is something that all of you would agree would be helpful as a key principle of a streamlining effort?

Response. Absolutely. We wholeheartedly endorse early participation of all interested parties in the NEPA process.

*Question 5.* What timeframe do you think would be adequate to implement Streamlining provisions under Section 1309?

Response. It will take years to achieve significant positive changes on a consistent nationwide basis. But it can take just months for the earliest benefits to be detected, in particular those involving attitudes, relationships, and personal commitment. These, in the end, are the driving forces that determine whether the process succeeds or fails.

A key advantage of the survey research approach is that it would be clear to participants from the outset that their involvement in the process will be measured by surveying peers and fellow stakeholders. Thus, just the process of conducting the surveys on a regular basis (probably annually at first) will induce performance improvements. It's the old adage that "what gets measured gets done." The survey research will also produce results much sooner than the years required to conduct pilot programs or to collect enough objective data on any improvement in actual elapsed timeframes.

Finally, we share the concern of some of your colleagues on the committee that more than a year has transpired since the enactment of TEA-21, and yet the National MOU mandated by the statute to guide the process has not yet been signed by the relevant Federal agencies. ACEC stands ready with ideas and good faith to move this process along, and we look forward to working with you and others to take the next steps.

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STATEMENT OF ROY KIENITZ, EXECUTIVE DIRECTOR, SURFACE TRANSPORTATION  
POLICY PROJECT

Good morning Mr. Chairman, I am Roy Kienitz, Executive Director of the Surface Transportation Policy Project. We are a coalition of over 200 national, State and local public interest groups. Our members include organizations concerned with the environment, scenic and historic preservation, and better public transportation, as well as business and professional organizations. Thank you for having me back again to testify.

I would like to begin by reminding the Subcommittee of the positive engagement of the environmental community that I represent in the process that led to the streamlining provisions of TEA-21. We worked actively with Senators Wyden, Graham, Chafee and others to suggest refinements to the language as the process moved along and I am glad to say that we were comfortable with the language in the final bill.

We have every hope of proceeding in this spirit in the regulatory process as well. We believe that the Federal project review process can be sped up for most projects even while environmental protections are strengthened—a result I believe all of us here today are striving for.

Before I comment on the specifics of USDOT's work on this subject so far, I would like to frame the problem.

We think of the projects that navigate the Federal approval process as falling into two natural categories: first, those on which a consensus has been reached locally, and second, those where strong disagreement still exists in the area where the project will be located. We believe that Federal process reforms can be most effective in addressing the treatment of projects in the first category. There is no good reason for Federal approvals to take years if there are no major disagreements over the project being proposed. These delays are the most needless of all, and are the easiest ones to attack.

The second category, however, is a little tougher. Indeed, many of the anecdotes about projects that spend years in the system are those where profound local disagreements over the wisdom of the project have not been resolved, where compromise has been neither sought nor reached. In these cases, local governments, State or Federal environmental agencies, and citizens have little choice but to use the full force of the law to oppose projects with major environmental or community consequences.

Efforts to "reform" the review process to deal with these delays are not likely to be as fruitful. The difficulties these projects encounter are matters of substance, not process, and procedural tinkering won't resolve them.

Contrary to common perception, in these situations our environmental laws rarely prevent a project from being built. Instead, they require further studies, design modifications, or other changes to the project. All of these things cause delay. From an environmental point of view, sometimes the right answer might be a simple "No," but our current system is not set up to provide this answer. It has two available responses: "Yes" or "Not Yet." In this way, delay has become a surrogate for denial.

I say this not because we believe that "No" is the right answer in most cases, but to help the Subcommittee understand the origins of some of the absurd-sounding delays that controversial projects run into. In the struggle between the proponents and opponents of a controversial project, the best an opponent can hope for is to delay things until the proponents change their minds or tire of the fight. It is the only option they have, and so they use it.

We believe that USDOT's primary goals in its streamlining process should be to speed the delivery of the more than 90 percent of projects which are not controversial, and to use its influence to make the consensus approach to project development the dominant one.

Getting to specifics, we have five principle recommendations for USDOT.

First, USDOT should retain the functional elements of the Major Investment Study as part of its new project approval process. The best way to do this would be for the MIS to be integrated with the initial scoping phase of the NEPA process. In this way, the broad range of alternatives identified in a region wide plan could be considered without adding time to the process in a way that brings all the relevant players to the table.

The Major Investment Study, which was created by ISTEA in 1991, has been valuable because it regularizes the process of arriving at a preferred alternative for a major investment—often the single most important decision in the project development process. In this role, the MIS has helped to rectify one of the essential contradictions of the National Environmental Policy Act (NEPA)—its requirement that alternatives be considered only after an agency has decided what it wants. Although many agencies make a good faith effort to keep an open mind during NEPA review, human nature makes it difficult for people to disregard the biases formed during the work done so far. The MIS process brings the functional advantages of NEPA review—broad consideration of alternative solutions, consistent analytical methodologies and an open process—to the early stages of project development where they belong.

Second, USDOT should assure that states and MPOs cooperate as equal partners in the development of funding estimates for metropolitan areas. Such a process could help prevent many of the huge in-state funding inequities we have seen during the past 6 years as reported in Mayor Ken Barr's testimony here 2 weeks ago. On this point we concur with the recommendations of the U.S. Conference of Mayors, the National Association of Counties and the Association of Metropolitan Planning Organizations.

Third, USDOT should assure that states follow a robust process for gaining input on spending decisions from local elected officials in rural areas. ISTEA and TEA-21 have given new authority to local officials in our larger metro areas to have input into transportation spending decisions. However, local-elected officials in rural and small metropolitan areas have enjoyed no such benefit. This should be rectified.

Fourth, USDOT should provide specific guidelines for determining the equity effects of transportation investments, and for the involvement of underserved and minority communities in the development of plans and projects. This is an area of increasing litigation, and USDOT would be well served to tell states and MPOs how to assure funding equity is being achieved under the requirements of the Civil Rights Act and the Executive Order on Environmental Justice.

Finally, USDOT should assure that any changes to regulations enforcing the National Environmental Policy Act respect the basic elements of that law: a preference at the Federal level for environmentally beneficial projects, and the right of citizens to know the environmental effects of projects that propose to use Federal funds.

In summation, we believe that the streamlining process can be undertaken in a way that delivers both efficiency and environmental benefits, and we hope USDOT sees this opportunity as well.

Thank you.

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STATEMENT OF BRIAN HOLMES, AMERICAN ROAD & TRANSPORTATION BUILDERS ASSOCIATION

Good morning. My name is Brian Holmes and I am the executive secretary of the Connecticut Road Builders Association in Wethersfield, Connecticut. I am testifying on behalf of the American Road and Transportation Builders Association (ARTBA). ARTBA represents 4,000 firms and public agencies involved in transportation design and construction. The association's membership includes construction contractors, engineering firms, heavy equipment and safety device manufacturers and distributors, materials suppliers, State and local transportation officials and private sector financiers of transportation projects. Our members employ more than 500,000 people in the \$160 billion per year U.S. transportation construction industry.

I would like to start by commending Chairman Voinovich, Senator Baucus and the other members of the Transportation and Infrastructure Subcommittee for convening this hearing to discuss one of TEA-21's key policy innovations—Section 1309, which is aimed at streamlining the environmental review process for transportation improvement projects.

It is a pleasure to have the opportunity to testify before the subcommittee again. I appeared before this panel during the development of the National Highway System Designation Act (NHS). The purpose of that hearing was to discuss a transportation conformity issue. At that time, EPA was proposing to extend transportation conformity restrictions to communities that met Federal air quality standards. ARTBA challenged in court the agency's statutory authority to promulgate such a rule. This subcommittee, led by Senators Warner and Baucus, included a provision in the NHS act that codified the court settlement ARTBA reached with EPA.

PROJECT STREAMLINING, TEA-21 SECTION 1309

The ARTBA co-chaired and initiated Transportation Construction Coalition was pleased to have played a role in the development of Section 1309. Through this provision, Congress recognized the unconscionable delays that occur in moving many transportation improvement projects through the approval process. The ultimate goal of Section 1309 is to move transportation projects through the various environmental review processes as quickly as possible, while complying with Federal environmental standards.

We strongly support this common sense approach to improving Federal oversight responsibilities and ensuring the efficient use of tax dollars. Senators Graham, Smith and Wyden deserve great credit for initiating this provision in the Senate's initial ISTEA II reauthorization proposal.

Prior to the enactment of TEA-21, it almost seemed one needed a global positioning system to keep track of where a transportation improvement project was in the review process. The multiple processes with an approval role for transportation projects are the National Environmental Policy Act (NEPA), State NEPA equivalents, clean water permits, clean air conformity and endangered species implementation. Often times these procedures mask disparate agendas or, at minimum, an institutional lack of interagency coordination and the result is a string of seemingly endless delays. While TEA-21 maintains these processes, it does attempt to minimize delays and inject a holistic, unified approach to the approval of transportation projects.

Section 1309 seeks to establish a coordinated environmental review process for transportation construction projects. This provision requires diverse Federal agencies to put aside their claims of exclusive jurisdiction to create a coordinated process—as envisioned under NEPA. We are pleased this process requires the reviews to be conducted concurrently and calls for the establishment of specific timeframes before the reviews begin. We also believe the designation of the Secretary of Transportation as the lead official in the coordination of these efforts is critical to the success of accelerating the delivery of transportation projects.

TEA-21 IMPLEMENTATION GENERAL RECOMMENDATIONS

ARTBA has recommended three general principles the U.S. Department of Transportation (U.S. DOT) should follow throughout the implementation of TEA-21, and

believes these recommendations are particularly relevant to the environmental streamlining provisions in Section 1309:

- Through Congress, the American people want the improved mobility and access promised by TEA-21, not endless processes. The development of highway and transit projects has become mired in excessive regulation that is cumbersome, costly and time-consuming. TEA-21 is an opportunity to go in a positive, new direction, with USDOT's primary role as providing broad overall guidance and extensive technical support to State and local transportation agencies.
- New or continuing regulations should be promulgated only when the law explicitly requires them. In all other cases, non-binding guidance should be the rule.
- Where regulations are required, USDOT should emphasize permissive rather than detailed mandatory language, with as much flexibility as possible to allow State and local governments to find solutions that effectively address the broad range of local situations.

In addition to these guiding principles for the implementation of TEA-21, ARTBA has recommendations for the implementation of Section 1309. As members of the industry which will be dealing with the new streamlined approval process on a daily, first-hand basis, we believe these recommendations will help ensure the intent of Congress is carried out and that Section 1309's objectives are realized.

#### SECTION 1309 IMPLEMENTATION TIMELINE

As previous witnesses have indicated, it is difficult to comment in detail on the implementation of Section 1309 because very little has been released publicly about the Administration's progress or plans on this important endeavor. The Administration did release an options paper earlier this year and requested comments on it, but as senators at an earlier hearing stated, it was a cumbersome document that did not provide any detail on current Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) policy development.

TEA-21 was enacted June 9, 1998. We are told FHWA and the natural resource agencies held their first interagency meeting on the implementation of the streamlining provisions on April 7 of this year. FHWA Administrator Wykle indicated April 15 he expected a notice of proposed rulemaking would be completed within 120 days. Mr. Chairman, those of us who have been involved in this process from its nascent stages are concerned about the pace of these proceedings.

Adding to our concern, we were told earlier this year by an FHWA official that the process was moving slowly because some natural resource agencies did not believe Section 1309 applied to their role in the approval of transportation projects. This type of attitude not only slows down the development of the streamlining regulations, but also could undermine their effectiveness once implemented. Congress clearly intended the streamlining provisions to apply to all agencies involved in the review of transportation projects and communicated through Section 1309 that an uncoordinated, uncooperative process is no longer permissible. It is our hope this subcommittee will continue to be actively involved in the implementation of these important regulations and demonstrate its willingness to assist FHWA and FTA in clarifying the intent of Congress to any agency that is unclear about its obligations under Section 1309.

#### LEAD AGENCY ROLE

It is critical for the U.S. Department of Transportation to have the lead role in the approval of transportation projects and, consequently, all stages of the coordinated environmental review process. The natural resource agencies do not have expertise in this area and cannot make informed decisions on the wide ranging issues related to approval of these projects.

#### MEMORANDUM OF UNDERSTANDING

We believe that contact between executive branch agency heads, through a memorandum of understanding or a stronger mechanism, is essential to ensure the goals of section 1309 are realized. Without direction from the top calling for joint action, transportation planning and development have no better chance of surviving agency-centric disagreements in the future than they do today. Cabinet or agency heads must make this statement soon.

A related issue to the lead agency role and the development of a memorandum of understanding is the provision of Section 1309 that allows an exception for participating in the coordinated environmental review if it would result in a significant adverse impact on the environment. A conceivable example of this type of situation could be requiring a decision to be made on the basis of purportedly inadequate information. To ensure that even in these "exception" cases the concept of streamlin-



ing is adhered to, ARTBA believes an agency with such an opinion should be required to continue its involvement in the coordinated process. It would seem there is a benefit from unifying the system even if concurrent processing is not possible in all instances. Inclusion of all agencies in the process would improve time management and the level of information that reasonably needs to be made available to those seeking it.

#### SIMPLIFICATION, NOT COMPLICATION

The ultimate goal of Section 1309 should be to allow transportation decisionmaking to go forward—and quickly—not provide opportunities for dissenters to throw up roadblocks. To this end, FHWA should work to simplify the process and avoid adding new requirements or mandates.

#### FRONT-END SCOPING

To address the excessive delays currently associated with the NEPA process, a multi-agency front-end scoping process should be developed that identifies issues to be explored and establishes specific timelines to complete the analyses. This process should set the stage for cooperation among agencies, distinguish the important issues from the inconsequential, and focus the analysis to produce answers that will be needed in the decisionmaking stage. Sequential reviews of new issues should be minimized, if not eliminated. In addition, involved State and Federal organizations should be required to identify issues of concern to their mission as early as possible.

#### PILOT EFFORT

The U.S. Department of Transportation, in its TEA-21 environmental and planning options paper, listed the potential of establishing a "pilot effort." We very much like the idea of testing a product before shipping it to the consumer. A useful pilot effort would be projects that test alternative approaches to gaining early inter-agency cooperation.

#### ASSISTANCE TO AFFECTED FEDERAL AGENCIES

Congress accurately recognized that inter-agency cooperative action requires adequate staff resources. While the concept of funds transfer is controversial, it has been demonstrated to work in some cases. In the instances where it has been effective, the funds were used to support a specific individual(s) performing specific tasks on specific projects. It would be unwise, and, in our view, inconsistent with Section 1309, to contribute funds to the general operating budget of an agency, department, or office and hope that sufficient personnel would be available when needed to achieve the goal of expedited schedules.

We are concerned the FHWA/FTA "options paper" stated "... other statutory authorities exist for agency reimbursement and FHWA and FTA are exploring the full range of options for reimbursing agencies under any of the appropriate authorities." This interpretation could potentially lead to efforts by executive branch agencies to supplement their normal operating budgets.

Consequently, we recommend that a detailed reporting system to Congress be established to provide adequate oversight on the application of this particular provision. The goal of this system would be to ensure that any funds transferred are used only to assist agencies in meeting expedited time schedules, not to perform review functions that are part of an agency's general responsibilities.

#### CREATING A BENCHMARKING SYSTEM TO JUDGE PROGRESS

We share the hopes of the authors of this provision that it will generate significant improvements in the delivery of transportation projects. We suggest that a mechanism be established to measure or "benchmark" progress in the implementation of streamlining in the years ahead.

We propose that proven survey research methods be utilized to measure in a statistically valid way whether or not all parties with a role in the approval of transportation projects are participating in the streamlining process in a constructive manner. We believe that an objective third party with a proven track record in this type of survey research would be the most appropriate entity to conduct the benchmarking study.

Section 1309 faces not only procedural obstacles due to the multiple Federal/state agency jurisdictions over separate elements of the Federal-aid highway program, but it also requires a change of attitude among the affected agencies. Coordinated environmental reviews require a cooperative process that is above competing or contradicting agendas. This type of evolution is best measured through attitudinal sur-

vey research techniques that include unbiased questions asked of a subset of the involved group.

This suggestion is not intended to assign a characterization of success or failure to Section 1309. It recognizes, however, that long run indicators that may evolve as a result of the various memoranda of agreement and pilot processes now under discussion will take years to develop. In addition, if the length of time necessary to develop an interagency memorandum of understanding for the coordinated environmental review process is any indicator of the regulatory process ahead, this type of mechanism may allow an ongoing evaluation for the short term. A benchmarking system would not only aid members of this subcommittee in fulfilling your oversight responsibilities and establish a baseline reference for future progress; it may also inject an element of accountability among the various Federal agencies involved in this process.

We believe this type of process should be initiated within the next 6 months to develop an appropriate baseline. To be consistent with the intent of Section 1309, we believe the U.S. Department of Transportation should have the primary responsibility for the coordination of the "benchmarking" study and bear its minor cost. While this proposal is not expressly called for in Section 1309 and needs to be further developed, ARTBA pledges to work with this subcommittee and all stakeholders to refine this mechanism.

#### ENVIRONMENTAL JUSTICE

Environmental justice—or equity—was first officially recognized by the Federal Government through a 1994 executive order issued by President Clinton. The order instructed select agencies and departments to review asserted "disproportionately high and adverse human health or environmental effects" that particular "programs, policies, and activities" have on minority and low-income populations in the United States. The concept has no basis in any existing law or regulation. In fact, the judicial system has given the concept a cold shoulder at best and Congress, through the appropriations process, has explicitly prohibited certain agencies from pursuing "environmental justice" enforcement.

The stated purpose of environmental streamlining is to make the permitting process shorter and easier. The Administration's efforts to include "environmental justice" review in the NEPA process could seriously threaten the effectiveness of Section 1309. The objectives of accelerating transportation project delivery cannot be attained if the process can be side-tracked by anyone who has even the slightest disagreement with a project. "Environmental justice" is a highly amorphous term that has not been clearly defined by Congress, the courts, or even the government agencies that are attempting to enforce it. It is clearly an undue burden on the public to be subjected to enforcement actions that have no established parameters.

ARTBA strongly opposes the inclusion of "environmental justice" in the NEPA streamlining process—an option proposed for consideration in the FHWA/FTA paper on implementation of TEA-21's environmental and planning provisions.

#### TRANSPORTATION CONFORMITY REFORM

Mr. Chairman, any discussion about how to speed up transportation project delivery must include a tremendously important issue not addressed by Section 1309 of TEA-21—Federal law and regulations implementing transportation conformity with the Clean Air Act.

In just recent weeks, we have seen vivid examples of how opponents of highway improvements are using transportation conformity to delay or stop much-needed projects. Of course, I am speaking of the Wilson Bridge Project here in the nation's Capital that has now been threatened with serious delay by a court order. And the March 2 Federal court of appeals decision in *Environmental Defense Fund v. Environmental Protection Agency (EDF v. EPA)* that struck down a longstanding and reasonable EPA rule that allowed transportation projects that had already received NEPA approval to be grandfathered into subsequent State transportation and air quality plans required by the Federal Government.

We are struck by an observation that Judge Sporkin made in issuing his ruling on the Woodrow Wilson Bridge earlier this month. He wrote: "These [environmental] statutes have as their purpose the protection of various aspects of the public interest. Despite their intended purpose, they often cause regulatory gridlock that results in necessary projects being interminably delayed. While a return to the simpler days of the past might better satisfy the concerns of the public interest statutes involved here, progress must nonetheless occur." The judge suggested that Congress might explore "direct intervention" to "bypass the regulatory gridlock that have developed."

Transportation conformity with the Clean Air Act is the major impediment to getting needed transportation projects off the ground and into the construction phase. Congress needs to simplify how the air quality aspects of transportation projects are evaluated and to remove the complex procedural hurdles that can result in repeated delays and disruption.

Transportation projects are different from other projects subject to regulation under the Clean Air Act. Transportation projects typically advance important public health and safety objectives, such as congestion mitigation and redesign of unsafe roadways. Delaying projects does not further these important objectives. Moreover, from an air quality standpoint, mobile source emission control requirements have become more stringent over time, and will continue to result in additional emission reductions per vehicle mile traveled in the future. This will result in continued air quality improvements from the transportation sector, over and above the other important public health and safety objectives.

As a result, a program that serves as a barrier to needed transportation projects does not serve the public interest. The real issue, therefore, is how to keep both the federally-assisted highway program and the clean air program running, without having one impose unreasonable procedural barriers and delays on the other. Given the special characteristics of transportation projects, we believe the best approach would be to use the transportation conformity process as an evaluation tool to provide information to State air quality decisionmakers, but not to impose on transportation plans and projects a never-ending decisional process that will inevitably disrupt and delay project planning and implementation. Under this approach, State air quality agencies would have detailed information on transportation planning to take into account in their air quality planning process, but transportation projects would be able to proceed once the required evaluation was completed and submitted to the state.

As the recent *EDF v. EPA* decision and the growing number of lawsuits against highway improvement projects demonstrate, the situation requires a legislative fix to make clear that changing clean air requirements do not require all highway planning and projected development to come to a standstill. To make matters worse, the grandfathering decision is just the latest development in a string of assaults on the congressionally directed Federal highway program over transportation conformity issues. Separate lawsuits have also been used to stop transportation improvement projects in Florida, Idaho, Missouri, West Virginia, Georgia, Wisconsin, and the Woodrow Wilson Bridge project, just to name a few.

Congress has clearly recognized the inconsistency between how the Clean Air Act is being interpreted by some, and manipulated by others, to undermine the objectives of TEA-21 and other previous surface transportation reauthorization bills. Earlier this year, Senator Bond introduced legislation, S. 495, to reform the Clean Air Act provision that allows a state's Federal highway funds to be withheld if that State is not in attainment with Federal air quality standards. Chairman Voinovich and Senator Inhofe have both suggested that a legislative remedy to the "grandfathering" decision may be required. Representative Jim Moran and others have said a surgical legislative solution to the Woodrow Wilson Bridge's most recent setback may also be necessary.

We certainly agree with all these proposals and statements, but would respectfully suggest that these separate, but related, symptoms are indicative of a much larger disease. The transportation conformity provisions of the Clean Air Act must be reformed or we can expect to see more and more necessary highway improvement projects across the Nation held up or stopped.

Mr. Chairman, it is not a coincidence that Members of Congress are seeing transportation projects in their states or districts delayed due to conformity issues. In fact, we are heading for a direct collision between the record number of projects authorized or funded in TEA-21 reaching the approval phase at the same time EPA's new air quality requirements for particulate matter and ozone are implemented. Under EPA's own estimate of the new standards' impact, which I believe this committee has considered conservative in the past, the number of nonattainment counties will more than triple.

The combined effect of TEA-21's increased transportation investment, the new air quality standards, current conformity provisions and the *EDF v. EPA* decision could have a devastating impact on my industry's ability to make needed transportation projects a reality. In summary, Mr. Chairman, the biggest impediment to accelerating project delivery is not addressed in Section 1309 of TEA-21 and can only be overcome by reforming the Clean Air Act's transportation conformity program.

The Federal transportation conformity regulations were based on what has proven to be a false assumption—that forcing a shift of Federal dollars from highway capacity improvements to alternative transportation projects will result in a significant

improvement in air quality. The assumption failed to recognize or anticipate the dramatic reduction in overall automotive emissions that has occurred over the past decade—and will continue well into the next century—despite increased auto usage sparked by population and economic growth, lifestyle choices and employment demographics. [See attached chart].

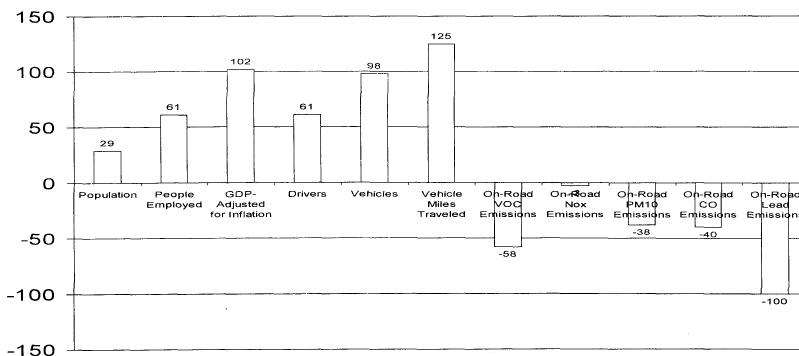
#### SAFETY CONCERNS

Mr. Chairman, before I end my prepared remarks, I would like to add one brief thought. As a result of TEA-21, one of the seven newly consolidated transportation planning factors is safety. We commend the Congress for designating safety as a preeminent consideration in the development of our nation's infrastructure and for the Clinton Administration's commitment to safety as its top transportation priority.

It is our hope this subcommittee will work to ensure that as the development of these new planning regulations goes forward, the Administration's safety efforts are focused on roadway infrastructure safety as well as the behavioral or social initiatives that receive so much media attention. Mr. Chairman, roadway design, maintenance, safety appurtenances and construction workzone safety are every bit the public health threat as impaired driving or the lack of seat belt usage. In fact, roadway conditions are factor in over 12,000 annual U.S. roadway fatalities and over 700 people are killed each year in highway construction work zones. We believe these important safety issues deserve recognition in the new transportation planning regulations.

This concludes my written statement. I would like to once again thank the subcommittee for allowing me to be here today and I would be happy to answer any of your questions.

### Percentage Change in Motor Vehicle Emissions Related to Demographics & Transportation (1970-1996)



Sources: U.S. Bureau of the Census, *Statistical Abstract of the United States, 1997*, Tables 2, 619, 296 (population, people employed, GDP); Federal Highway Administration, *Highway Statistics (Summary to 1995, 1996)*, Tables DL-22, MV-1, VM-1 and DL-201, MV-201, VM-201 (Drivers, vehicles, vehicle miles traveled); U.S. Environmental Protection Agency, *National Air Pollutant Emission Trends, 1990-1996*, December 1997, Ch.3 on-road vehicle emissions.

#### STATEMENT OF MITCH LESLIE, ASSOCIATION OF GENERAL CONTRACTORS OF AMERICA

Good morning Mr. Chairman and Members of the Subcommittee. My name is Mitch Leslie. I am President of Quality Concrete Company based in Billings, Montana. I am also President of the Montana Contractors Association. I am here on behalf of the Associated General Contractors of America (AGC). I appreciate the opportunity to present testimony on project delivery and environmental streamlining. The Associated General Contractors believes that the environmental streamlining provisions included in TEA-21 were long overdue and in light of recent legal actions are more necessary now than they were last year.

The Associated General Contractors of America (AGC) is the nation's largest and oldest construction trade association, founded in 1918. AGC represents more than

33,000 firms, including 7,500 of America's leading general contracting firms. AGC's general contractor members have more than 25,000 industry firms associated with them through a network of 99 AGC chapters. AGC member firms are engaged in the construction of the nation's commercial buildings, factories, warehouses, highways, bridges, airports, waterworks facilities, waste treatment facilities, dams, water conservation projects, defense facilities, multi-family housing projects, site preparation, and utilities installation for housing developments.

#### AGC SUPPORTED THE TEA-21 STREAMLINING PROVISIONS

AGC aggressively pursued the inclusion of the environmental streamlining provisions in TEA-21. AGC has long stated that it was essential that Congress accelerate the process of planning, designing and constructing transportation projects. Toward that end, AGC sought the statutory change which would protect the environment and at the same time expedite the environmental permitting process by requiring a coordinated environmental review process within USDOT. More specifically, the legislative language requires all reviews, analysis, and permitting to be performed concurrently and cooperatively within a mutually agreed upon schedule by both the Federal and State agencies with jurisdiction over the particular project.

Congress recognized the need to expedite the permitting process. The congressional intent behind the environmental streamlining provisions as described in the TEA-21 Conference report was to, "address the same concerns, the delays, unnecessary duplication of effort and added costs often associated with the current process for reviewing and approving surface transportation projects." I am sure every member of this committee has examples in their own State of roads that cannot be built because of the layers of red tape and differing priorities of State and Federal agencies.

According to a document I have seen prepared by the Ohio Department of Transportation, road projects require 8 years of planning and permitting before they can even begin construction.

Congress, more than 20 years ago, recognized that the construction of highway projects is unnecessarily delayed. Section 141 of the Federal-Aid Highway Act of 1976 required the Secretary of Transportation to carry out a project to demonstrate the feasibility of reducing the time to complete a highway project. The entire 4.6-mile project was open to traffic on August 2, 1980, merely 3 years and 7 months after the inception of the project—6 years less than the average project of this size and type in the state.

Had the project taken the normal time to complete, it would have cost an additional \$11 million due to inflation alone. Timesavings by major project phase were as follows:

	Time Savings
Environment .....	1 year 10 months
Location .....	2 years 2.5 months
Design .....	1 year 10 months
Right-of-way .....	1 year 7.5 months
Construction .....	3 months

Early coordination of priorities and procedures allowed identification and elimination of time-consuming Federal and State procedures without going outside statutory requirements.

This was a very successful experiment. At the completion of the project the Federal highway administration estimated, "on a national basis, Federal funds of about \$64 million per year could be saved if 10 percent of all Federal-aid highway projects were accelerated like this project."<sup>1</sup>

Major projects must adhere to the NEPA process. This now cumbersome process requires that the Federal Highway Administration, the Corps of Engineers, the Environmental Protection Agency, the Fish and Wildlife Service, and the US Coast Guard to sign off on all projects. Each agency must prepare separate review and approval documents. In some cases this consecutive review process can add 3 years to a project approval life cycle. Many of these agencies adhere to their own schedule and do not feel the time pressure shared by those in the local community, the Department of Transportation or their State colleagues. Recognizing this obstacle to

<sup>1</sup> Acceleration of Highway Projects, A Report to Congress on the Everett Bypass Project. U.S. Department of Transportation, 1981.

safe roads, Congress streamlined the process in TEA-21, but this paradigm shift has not been recognized in our Federal bureaucracy.

#### ONE YEAR AFTER PASSAGE OF TEA-21

The Federal Highway Administration proposed an options document in which stakeholders commented on how the process should move forward. Some of these proposals would allow the process to take longer than is currently conceived. The main goal of getting all the regulatory parties to the table will not be recognized for several years. Most troublesome of the stakeholder comments was that this streamlining provision was optional.<sup>2</sup> AGC strongly objects to this characterization. All parties must come to the table on the front end of a project so that potential conflicts can be avoided, the environment can be preserved, and the local community can be protected.

Currently, FHWA has a consensus on a draft Memorandum of Understanding (MOU) with the resource agencies. These include the Corps of Engineers, the Environmental Protection Agency, the Department of Interior, and the Advisory Council on Historic Preservation. There are some bi-lateral agreements still to be worked out. AGC understands this is targeted for completion by the end of June. In addition, the regional administrators are participating in a similar effort. Stakeholders are still welcome to comment on the streamlining MOU. AGC urges the members of this committee to continue to monitor the development of this MOU to ensure that the goals of TEA-21 are realized. Specifically AGC supports several of the goals outlined in the MOU such as: establishing an integrated review and permitting process that identifies key decision points and potential conflicts as early as possible; integrating NEPA as early as possible; encouraging full and early participation by all relevant agencies; establishing coordinated time schedules for agencies to act on a project; creating dispute resolution procedures to address unresolved project issues; identifying solutions to minimize delays, prevent overlap, and avoid disruption of the NEPA process; and, establishing performance measures to evaluate the effectiveness of environmental streamlining efforts. It is our sincere hope that these goals would be established without expanding the burdens of the current environmental review process and without imposing new standards or encroaching on the role of the states in making national transportation decisions.

#### IMPORTANT TO THE REALIZATION OF THE GOALS OF TEA-21

It is critical that the goals of TEA-21 be realized. Everyone on this committee supported the conference report. The environmental streamlining provisions are critical to the realization of the goals of TEA-21. In the construction industry it is imperative that we have the equipment, the manpower, and a certain and predictable schedule to build these needed improvements. In Montana our highway construction season lasts only 8 months, so getting the work done in a single construction season can be difficult. The uncertainties and the length of the permitting process often make it even harder to build these projects.

#### RECENT COURT RULINGS PLACE PROJECTS IN DANGER

Recent court cases have put the interest of national environmental activists ahead of the safety of motorists. Specifically, the decision in the *Environmental Defense Fund v. EPA Administrator Carol Browner* in the U.S. Court of Appeal for the DC Circuit jeopardizes the safety of motorists. This ruling hinged on the statutory basis for a regulation allowing the EPA and the FHWA to approve projects and let them proceed even if at a later date the projects were submitted on State implementation plans that did not meet emissions targets. These were projects that had been approved by the local, State and Federal Government agencies responsible for maintaining human health and the environment. What it amounts to is that the EDF can challenge the approval of highway projects by the EPA and FHWA after the projects have been approved and millions of Federal and State tax dollars have been spent. As a result of this development environmental activists now have the final say on which projects can be constructed.

If this was the intent of the Clean Air Act, it has been realized. If it was not the intent, the intent of the statute must be clarified. The Department of Justice did not ask for a rehearing in this case. FHWA estimates that over \$1 billion and 84 projects are at stake. The Federal Highway Administration identified areas in California; Montana; North Carolina; Georgia; Idaho; Kentucky and Tennessee as nega-

<sup>2</sup>Federal Highway Administration and Federal Transit Administration TEA-21 Planning and Environmental Provisions: Options for discussion.

tively impacted by this ruling. What this estimate don't tell you is the lives at stake or the local communities that will be disrupted as these lawsuits are settled. Moreover, the estimates do take into account the legal roadblocks national environmental activists can construct in our state, nor do they consider the devastating impact on the construction industry.

Montana may have dodged the bullet of the *EDF v. EPA* ruling, but a final determination has not been made. Montana will hopefully soon have an approved conforming State implementation plan (SIP). However, the Shiloh Interchange in Billings Montana is one project that could be stopped by this legal action. Our colleagues in other states will not be so fortunate. Missouri, Georgia, Idaho and Florida all face lawsuits attacking State and Federal approval of important highway projects.

AGC questions the Federal Highway Administration and the Environmental Protection Agency's proposed regulatory change to allow some projects to proceed. AGC questions the legality of a regulatory solution when it was an EPA regulation that the court struck down in this case. In addition, AGC questions the ability of the EPA to negotiate this regulatory proposal with the environmental defense fund when the environmental defense fund is not party to the lawsuits in Missouri, Florida or Idaho, unless this is a coordinated attack by national environmental groups on State highway construction programs. If this is not a coordinated attack, then the FHWA and EPA will have to negotiate with the plaintiffs in the other three cases as well. AGC also questions the Administration's deference to national environmental activists. Very seldom is the Federal Government held hostage by a single, narrow interest.

AGC supports Senator Bond's efforts to legislatively shield the grandfather clause from further costly litigation through a legislative solution. Senator Bond's proposal would simply codify the EPA rule that allows grandfathered projects to be built. If Congress would clarify this issue there would be little question as to the legality of the EPA regulation allowing the grandfathering of projects.

#### FUTURE ENVIRONMENTAL THREATS

In the West, we are very concerned about other threats to highway construction projects that could be mitigated by early incorporation into project decisionmaking. These threats include the rigid application of the Endangered Species Act, new Regional Haze standards and more stringent standards for particulate matter. Each stand as potential stumbling blocks to the construction of projects funded by TEA-21. AGC urges the committee to examine the impact of these threats to highway construction projects.

#### CONCLUSION

The streamlining provisions of TEA-21 were necessary. No one disputes that. Congress has been grappling for years with how best to preserve the environment while continuing to progress. AGC supports the efforts of this committee to improve the process. For construction of these much-needed improvements, contractors must be able to line up the material, equipment and manpower to do the job. Streamlining the process will help us to deliver projects on time and on budget. However, failure to adequately defend the goals of TEA-21 in the face of environmental challenges will cause disruptions in project delivery that will cost the construction industry, the government, and the economy billions of dollars and thousands of lives.

## Attachment

## Lawsuits

*EDF v. EPA*

Decided: March 2, 1999

United States Court of Appeals for the District of Columbia

Holding: Nullifies the Environmental Protection Agency's grandfather clause. The clause allowed highway projects that did not meet clean air conformity standards to go forward. If the project met previous clean air models, then the project was "grandfathered" into the current clean air models. EPA claimed that would allow these projects to go forward in the spirit of flexibility. The Court held that this flexibility did not exist according to the Clean Air Act. "If this legislative scheme is too onerous, it is up to Congress to provide relief, not this court." On March 16, 1999, EPA announced they would not appeal the case.

*Sierra Club v. Browner*

Filed: November 1999

Pleading: The Sierra Club claims EPA Administrator Carol Browner did not have discretionary authority to allow Missouri to go forward with road building since, St. Louis was not in attainment with the ozone standard. The Sierra Club is asking that the court instruct the Federal Government to withhold Missouri's Federal highway dollars until the city reaches conformity—complies with the ozone standard. AGC of Missouri, AGC of St. Louis, and Heavy Contractors of Kansas City have filed as intervenors to the case.

*Sierra Club v. EPA*

Filed: March 1999

United States Court of Appeals for the 9th District

Pleading: The Sierra Club is asking the court to vacate Ada County, Idaho's attainment status for particulate matter. On March 12, 1999 the EPA published a final rule in the Federal Register stating that Ada County reached particulate matter attainment. Prior to this finding, Ada County's road program was on hold. Current estimates are that \$21 million of roadwork is on hold with \$10 million affected annually for the next few years.

*Sierra Club v. US Army Corps of Engineers*

Filed: March 1999

US District Court in Jacksonville, Florida

Pleading: Permits for a 41.6-mile tollroad are being challenged by the Sierra Club. The Suncoast Highway stretches across West Central Florida. The Sierra Club believes the Corps of Engineers' environmental impact statement does not adequately address Clean Water Act, Clean Air Act, and Endangered Species Act requirements.

## RESPONSES BY MITCH LESLIE TO ADDITIONAL QUESTIONS FROM SENATOR VOINOVICH

*Question 1.* What are your views on the benefits of pilot programs?

Response. Pilot programs, if used properly, can be a tremendous benefit to streamlining the environmental process. Pilot programs allow states to experiment with innovative methods of improving the approval process and completing construction projects in as short a time as possible. I believe that pilot programs could be very beneficial. However, if pilot programs are used as an excuse for not implementing new regulations, then I would oppose the use of pilot programs. Hopefully, pilot programs can be used to test additional creative methods to reduce the delays.

*Question 2.* I am hearing a lot of support for getting people to become involved in the process early. Do I hear an overall consensus view that this is something that all of you would agree would be helpful as a key principle of a streamlining effort?

Response. Early participation by all parties is essential to accomplishing the goals of section 1309 of TEA-21. Currently, the process moves forward with some interested parties remaining on the sidelines, only to intervene and object later to a project moving forward for reasons they should have raised at the outset. This practice of waiting until a project is underway and millions of dollars having already been spent before raising objections, is a primary reason for the inclusion of section 1309 of TEA-21. Mandating early participation of all interested parties is an essential first step to reducing the time it takes to build highway projects.



*Question 3.* What timeframe do you think would be adequate to implement Streamlining provisions under section 1309?

Response. On June 9, 1999, TEA-21 was a year old. While I understand that DOT has been gathering input into how best to implement section 1309, I was hopeful that after 1 year, more documented progress would have been made. Nevertheless, by the end of the fiscal year, September 30, 1999, I believe DOT should be able to show concrete progress toward implementing section 1309, and by January 1, 2000, full implementation of the environmental streamlining provisions.

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RESPONSE BY MITCH LESLIE TO ADDITIONAL QUESTION FROM SENATOR CHAFEE

*Question 1.* Would you support a Federal requirement for States and MPOs to develop performance measures for all aspects of the transportation system and goals? Such a requirement could be structured without any restrictions on the content of the measures, rather, simply that such performance measures exist and the results are made available to the public as part of the planning process.

Response. Incorporating performance measures and accountability into the implementation of environmental streamlining is a laudable goal. The value of including performance measures, however, depends on what they require and how they are implemented. In some cases, if the performance measures are too rigid they won't be useful. On the other hand, the purpose of performance measures is to make people accountable through specific checks. Therefore, it is difficult to state whether I would support developing performance measures for all aspects of the transportation system and goals. If done with enough flexibility, I believe performance measures would be valuable.

## **IMPLEMENTATION OF THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY**

**WEDNESDAY, JUNE 9, 1999**

SUBCOMMITTEE ON TRANSPORTATION AND  
INFRASTRUCTURE,  
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,  
*Washington, DC.*

### **ENVIRONMENTAL STREAMLINING**

The subcommittee met, pursuant to notice, at 9:35 a.m., in room 406, Dirksen Senate Office Building. Hon. George V. Voinovich (chairman of the subcommittee) presiding.

Present: Senators Voinovich, Thomas, Smith, Baucus, Graham, and Chafee [ex officio].

#### **OPENING STATEMENT OF HON. GEORGE V. VOINOVICH, U.S. SENATOR FROM THE STATE OF OHIO**

Senator VOINOVICH. Good morning. The meeting will come to order.

Today is a special day. It marks the 1-year anniversary of the signing into law of the Transportation Equity Act for the 21st Century, TEA-21.

Mr. Chairman, that was, I think, a special time for the U.S. Senate and for America, and TEA-21 was designed and represented a coming together of various interests in this country. It is something that we should be very pleased about and, of course, monitor very closely between now and the next reauthorization.

Over the length of its 6-year authorization, TEA-21 will provide \$216 billion for service transportation infrastructure development and improvements. This level of funding represents a 40 percent increase in transportation spending above the previous representation of ISTEA, and, as we are already witnessing, is helping to meet the critical transportation needs of millions of citizens across the country. In fact, there is so much construction going on in the country today that in some areas we are worried about whether or not we have got the construction infrastructure to take care of the building of the roads. When I was home this last weekend in Ohio, barrels were all over the place. I said, "Well, there is a lot more money than we anticipated," and so we are going to see barrels all over the United States.

In addition, the implementation of TEA-21 is helping to provide hundreds of thousands of good-paying jobs all over America—that

is another aspect of this that sometimes we forget, and it is contributing to our low unemployment rate.

I was pleased to support this landmark legislation when it passed last year, not only as Governor of Ohio but on behalf of the nation's Governors and as chairman of the National Governors Association. I was very much involved in the negotiations, and I would like to let my colleagues know on this committee that I did everything possible to make sure that we did not pig out, as the saying goes, and that we tried to keep the spending within the caps of the budget agreement, and I was also very enthusiastic about making the 6-year commitment so that every year we did not come back and have to go through the process.

One of the pluses of TEA-21 was a legislative provision, section 1309, that was enacted to ensure that the environmental review process for projects was streamlined to help quicken the pace on the approval of projects. This would help keep much-needed transportation projects on track, on budget, and without delay.

The increased level of funding under TEA-21 allows more projects, as I mentioned, to be undertaken, which makes it imperative that an important section of the law like 1039, environmental streamlining, be implemented properly.

This is the second hearing that this subcommittee has held on this crucial section of the law. On April 29, the subcommittee held its first hearing regarding environmental streamlining and project delivery. At that hearing, various witnesses expressed concern with regard to the direction the Administration had been taking under the TEA-21 planning and environmental provisions options for discussion which had been issued in March, that options paper.

I had also indicated at the 29th hearing that I would be very interested to know what the Administration's response would be to what we have learned from the witnesses' testimony, and I am pleased that they will have an opportunity to do this this morning.

I cannot over-emphasize that the planning and environmental provisions of TEA-21 need to be implemented in a way that will streamline and expedite, not complicate, the process of delivering transportation projects.

I, along with a number of other members of the Environment and Public Works Committee, continue to be concerned that the option paper circulated for comment by the Federal Highway Administration and Federal Transit Administration will not effectively carry out the intentions of section 1309, and some think will actually serve to increase the time it takes to complete planning and construction on transportation projects. It is a subject that I will wish to explore with today's witnesses.

Therefore, I am pleased to welcome our witnesses today: Mr. George Frampton of the Council on Environmental Quality, and Mr. Eugene Conti, Assistant Secretary of Transportation.

For the benefit of the members of the committee, I had the privilege of meeting with these two gentlemen yesterday to become better acquainted with them, and I really appreciate their being here today.

I thought your discussions yesterday were fruitful, and it is my hope that your testimony today will clarify the Administration's intention with respect to streamlining the environmental process.

Mr. Chairman, thank you.

**OPENING STATEMENT OF HON. JOHN H. CHAFEE,  
U.S. SENATOR FROM THE STATE OF RHODE ISLAND**

Senator CHAFEE. Thank you very much. I do have a brief statement here.

First, I want to thank you, Mr. Chairman, for undertaking this hearing this morning. I think these are two important witnesses. The whole concept of environmental streamlining—that is, to make the permit and approval process work more smoothly and effectively, while still ensuring protection of the environment—is one of the more-difficult challenges of TEA-21.

While here, I want to certainly acknowledge the presence of Senator Baucus. He and I were hip deep a little over a year ago now, in this legislation. I guess we both heaved a deep sigh of relief when it finally passed in the Senate and was signed by the President.

There has been much discussion lately about what section 1309 was intended to achieve. Because there has been a good deal of confusion, I would just like to take a couple of minutes, if I might, to set the record straight, as I see it.

Let me start with what the environmental streamlining process was intended to achieve. It was intended to address the concerns raised by many project applicants about delays in project approvals and duplicative efforts and unnecessary cost. That is why we wrote section 1309. It directed the Department of Transportation to develop and implement a coordinated environmental review process for transportation projects.

What we intended was to make NEPA more effective by establishing an integrated review and permitting process and encouraging full and early participation by all the relevant agencies. That is what was reflected in the language of section 1309.

The environmental streamlining process of TEA-21 reaffirmed Congress' commitment to environmental protection, even in the context of highway construction and the underlying importance of NEPA.

Let me also make a couple of comments about what the environmental streamlining was not intended to do. It was not intended to mean a weakening of environmental standards. It was not intended to be the mechanism for State transportation departments to trump environmental considerations for narrowly-defined economic reasons. And it was not intended to be a process to circumvent environmental reviews or to limit meaningful analysis of alternatives or to expedite approvals for transportation projects with unacceptable environmental impacts. We intentionally rejected proposals that would limit the ability of Federal or State agencies to conduct thorough environmental reviews or that would allow transportation projects to so narrowly define the need for specific transportation projects as to make meaningful review impossible.

It seems to me the Department of Transportation and the CEQ, as well as EPA and other Federal agencies, now face quite a challenge. They are responsible for making this new streamlined proc-

ess work, balancing the desire for timely project approvals with the need for ensuring that the projects protect our environment.

I believe to achieve that goal they will have to do several things.

First, DOT must remain committed to work with EPA and CEQ and other Federal and State environmental agencies to ensure that environmental concerns are given appropriate and early consideration in the decisionmaking process, along with the economic considerations and technical ones.

Second, DOT and State transportation agencies must not be permitted to so narrowly define the statement of purposes or need as to virtually eliminate any meaningful environmental analysis.

Third, environmental agencies must be given adequate time and information to review proposed transportation projects and their alternatives.

And, finally and most importantly, DOT must recognize that, while minimizing project delays is important—and yes, we set that out as a goal—preservation of our environment is also important, and one is not to eliminate the other.

With that, I look forward to the testimony of Mr. Conti and Mr. Frampton and hope they will comment on some of these issues.

Thank you very much, Mr. Chairman.

Senator VOINOVICH. Thank you.

Senator Baucus.

**OPENING STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR  
FROM THE STATE OF IDAHO**

Senator BAUCUS. Thank you, Mr. Chairman.

I want to join in with the thoughts of our chairman, Senator Chafee, in reflecting back on the highway bill. I see others here who were involved in the highway bill. At the outset, I want to editorialize that I hope that Congress does not make changes to the allocation formulas and the basic provisions of the highway bill. If some are tempted in the appropriations process to do that, they will be opening up a Pandora's box which I think will cause many more problems than it is going to solve. I hope that members of the committee exercise proper restraint. Sometimes it is better to do nothing, and this is one of those times.

Mr. Chairman, I am glad we have the witnesses here. We wrote ISTEA-21 to streamline a lot of the procedures in the highway bill, particularly under section 1309 with respect to environmental review. It is our worry that the so-called "options paper" published by the Department, frankly, contains more regulations and more administrative hurdles of procedures, rather than fewer. The goal here is to streamline—to get rid of a lot of the red tape. The committee is concerned that the options paper was going in the wrong direction, and this fact has not been lost upon the Department. We are here today to hear with more specificity what the Department has in mind. Hopefully, the Department can more closely conform with the congressional intent in that provision.

Mr. Chairman, it is a good opportunity to listen to the Department and see where we can work together.

Thank you very much.

[The prepared statement of Senator Baucus follows:]

STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM THE STATE OF MONTANA

Thank you Mr. Chairman. Since this is our second hearing on the topic of environmental streamlining, let me make just a brief comment so we can get to our witnesses.

When we wrote this provision, we attempted to do two very important things. First, to reduce the duplications, overlaps, and complexities in the current review process. And second, to assure a thorough environmental and public review of transportation projects.

During hearings on TEA-21, we heard over and over that the process is too burdensome.

Over the years, additional requirements have been added. And most of them are there for a legitimate purpose. The problem is that they were added with no thought as to how they would work together.

TEA-21 gives us the chance to change that. To coordinate the steps so that it makes sense to all. To States, transportation planners, contractors, conservationists, and ordinary citizens.

So it is important that the Department of Transportation get it right. That's why I am glad the subcommittee is having this hearing BEFORE any rules are published. Let's see what they are planning and whether it will meet our intent when we wrote this section of TEA-21.

Senator VOINOVICH. Thank you, Senator Baucus.

Senator Thomas.

Senator THOMAS. Thank you, Mr. Chairman.

I do have a short statement. I am sure the witnesses sometimes think these ought to be called "listenings" instead of "hearings."

[Laughter.]

Senator THOMAS. But we also have——

Senator VOINOVICH. They need to hear a few things, too.

**OPENING STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR  
FROM THE STATE OF WYOMING**

Senator THOMAS. Exactly. So I do think it is an important hearing, and I appreciate it.

I am, frankly, deeply concerned about the environmental planning process and its effect on safety and the economy. For example, design work on the Cody-to-Yellowstone Highway—where I grew up, by the way—started in 1987. In 1997 the design was two-thirds done on the project and still not complete. It has been on hold until the department in Wyoming and the other agencies can resolve differences in wildlife mitigation. These delays have exacerbated the problems, of course, and the highway is unsafe and in dire need of improvement and will be having increased use.

I was hopeful that the environmental provisions of TEA-21 would get the Federal Highway Administration, the environmental community, the States, and others involved in the process that can shorten the time—being redundant, but I guess we all have that same interest—and lessen the design cost of designing projects like this one. But I am not optimistic now, as I was when the bill was passed a year ago. The options paper, which has been mentioned, had some, I think, rather alarming suggestions that would complicate, not streamline, the highway program.

Further, the draft MOU that is being circulated among agencies is artfully crafted, but I do not see much substance behind the rhetoric. I hope I am wrong about that.

Mr. Frampton, we have talked about this before in terms of what we do to make NEPA more usable, and so on, and the role, frankly,

of your committee, so I hope this is an opportunity to see if you can do some things there.

The bottom line, of course, it provides an opportunity for streamlining. That is what it was designed to do, and we should take advantage of it.

Let me just say that environmental streamlining is important. It has a lot to do with the development and the movement in the States to do these things.

DOT and the agencies have had a year to implement this program, and, frankly, apparently we feel there has been very little to show for that year, and we think we need to move beyond the rhetoric and get something substantially accomplished. So I hope that this hearing will help us lead toward that.

Thank you, Mr. Chairman.

Senator VOINOVICH. Thank you.

As I say, I appreciate your being here this morning. Our first witness is going to be Mr. Frampton, who is the acting director of the Council on Environmental Quality.

Mr. Frampton.

**STATEMENT OF GEORGE T. FRAMPTON, ACTING DIRECTOR,  
COUNCIL ON ENVIRONMENTAL QUALITY**

Mr. FRAMPTON. Thank you, Mr. Chairman, Senator Baucus, members of the subcommittee. I am delighted to be here today.

As you know, CEQ worked closely with members of the committee to craft section 1309, the environmental streamlining provisions in TEA-21, and we are very interested in seeing it implemented successfully—successfully in the sense that there is a real reduction in time and an integration of the permitting processes and the environmental review, but a shortening of time in a way that does not affect the fundamental integrity of the environmental process.

This is one of three areas where CEQ has made—I have made a decision to focus on NEPA reinvention and streamlining and try to become involved in an inter-agency way.

Now, I will just, if I may, summarize my written statement very briefly, since the Department of Transportation has the lead on this, but, obviously, CEQ's role is in seeing that stakeholders are really involved, that the agencies are working together, that all of the options are weighed and that successful solutions are crafted here.

I think, with the leadership of the Department of Transportation, we are now moving forward on this. There was an extensive inter-agency process before the publication of the draft options paper in February of this year, and I know that paper raised some concerns, but it was designed to be a paper that really did put on the table options that all the stakeholders thought might be possible approaches here, so it was designed as a very large menu, not a selection of specific fixes.

As a result of that process, that options paper is much broader than just 1309. That related to a variety of TEA-21 issues. But, with respect to 1309 and the streamlining, itself, we now have circulating for interagency concurrence a memorandum of understanding which is generic, but I think is the framework that most

stakeholders on all sides see as the kind of thing that we need for a framework for collaborative efforts.

As Assistant Secretary Conti will tell you, we have—Department of Transportation has set out a best practices kit. We have draft guidance out to DOT field offices on funding, which was an important part of this, of trying to make sure that parties who could not—agencies that did not have the money to participate in the process would get the funding up front. That is something that would really speed up the process.

There is a proposed rulemaking on integrating the planning process that is a notice of proposed rulemaking promised for the summer, and we are beginning to compile benchmark data, which was one of the issues that I think members of the committee were concerned about at the April hearing.

I realize that there is some sense of frustration, perhaps, as Senator Thomas expressed. It has been a year. What have you done? Where are we in the process? But I think I just want to close by observing that these are very complicated issues. TEA-21 is a very complicated statute. These are difficult issues at the local level, and they are some of the most contentious issues at the local level that get made in local government.

We have had problems with delays for decades and decades, so these problems are not going to be easy to fix, and we want to approach it in a way that is going to be effective, not just make a pass at it for a few years, but try to go in and do something that is really going to work, and that is going to take a little bit of time, but I think that, you know, we are hard at work now and the process has started.

Thank you, Mr. Chairman.

Senator VOINOVICH. Thank you.

Mr. Conti.

**STATEMENT OF EUGENE CONTI, ASSISTANT SECRETARY OF TRANSPORTATION POLICY, DEPARTMENT OF TRANSPORTATION**

Mr. CONTI. Thank you, Mr. Chairman, Senator Baucus, Chairman Chafee, Senator Thomas. I am pleased to be here today to talk about the Department's implementation of the TEA-21 acts, specifically the project delivery and streamlining provisions.

The committee, as has been mentioned, is to be commended for its work on TEA-21. It is a dramatic commitment of the Administration and the Congress to invest in America's infrastructure in a fiscally responsible manner, while increasing safety, improving the environment, and expanding opportunity.

The environmental streamlining provisions reflects reaction to concerns expressed about delays, unnecessary duplication of effort, added costs associated with the current process for reviewing and approving projects.

I can assure you we are listening to the direction provided to us by the Congress and the committee; however, we must also ensure that streamlining the environmental review process must not lead to degradation of the environment.

In March of this year, Secretary Slater invited his counterparts in other Federal agencies to cooperate in a multi-agency effort to



develop our joint environmental review process. We have now produced and I think the committee has a draft of the memorandum of understanding. We hope to have that signed very shortly and put in place.

Last week, we distributed successful practices tool kit to our DOT field offices. We have also provided some information to the committee staff in that regard. It is an example of how we are trying to work with State and local governments and partners to arrive at creative and flexible streamlining solutions sooner rather than later.

We are committed to public participation, keeping our stakeholders informed about our activities. We have an internet site specifically devoted to this issue. A whole series of papers and information is up on that site and today we will have my testimony and other information put on that site, as well. We have public discussions and meetings open to stakeholders planned to continue the discussions we started last year.

We have asked resource agencies and project sponsors to identify ways to collaborate, as well as to identify the challenges and obstacles that we continue to face in project development. Many have said that programmatic agreements, regional MOUs, less-formal partnering efforts, supportive pilot efforts, and training provide excellent opportunities for collaboration. Problems often stem from the lack of early involvement and consensus about the scope of the project, a lack of trust or good working relationships, lack of understanding of other agencies' missions and statutory requirements, and a poor quality of documents early in the process, which keeps things from moving forward.

Allowing the additional cost of the Federal agency compliance with deadlines as eligible project costs would assist project sponsors and, as George Frampton just said, we are moving forward in trying to implement that.

Repeatedly, we have been encouraged to avoid prescribing a one-size-fits-all requirement for streamlining, and we have been cautioned that streamlining initiatives need to be specific to the area and to the partnerships that exist in those areas around the country. They need to accommodate change and allow for flexibility.

We expect to publish a notice of proposed rulemaking regarding the integration of the planning, streamlining, and major investment study principles this fall. We will continue to vigorously pursue the many viable strategies for environmental streamlining such as those already described—the pilots, the training, the education process—outside of the rulemaking process.

On May 21 we met with the American Consulting and Engineers Council to better understand their proposal that they made at the April 29 hearing as far as benchmarking and establishing a performance measurement system to see how well we are doing in streamlining our process. We believe they have some promising ideas and we will continue to work with them as we move forward.

We have compiled some information on project averages. They do not tell the complete story, but the average duration of moving from EIS notice of intent to a record of decision was approximately 4 years for highways, 3½ for Federal transit projects, and I must

point out that the projects that require an EIS are the most complex projects, those with significant environmental impacts.

A look at our FHWA program in 1998 shows that over 90 percent of the projects advanced were categorically excluded from NEPA analysis and other environmental analysis. Others were processed with findings of no significant impact, and less than 3 percent required full environmental impact statements. Of the total amount of dollars available, 13 percent of those dollars went to projects requiring EISes.

An important part of the environmental review process is public disclosure of the impacts and informing decisionmakers about the impacts. The environmental review process provides a forum for debate about proposed transportation actions. When there is no local consensus on a solution, the environmental process can be lengthened as public debate on a proposal continues, and I think a lot of the examples we hear about are just that—there is no local consensus, and it is difficult to move forward without that.

We intend to track our progress in streamlining. We are proposing to have executive sessions twice a year, bringing our stakeholders together from the States, from the Federal Government, and really work through, in a quality management type approach, to address some of these issues, assess where we are and where we need to go to make sure that the process is working better.

To summarize, we believe our environmental streamlining effort must be based on a number of principles.

First, we need a process to ensure effective environmental decisionmaking in a timely manner. We must improve our process. We will provide the national leadership on environmental streamlining and will work with our Federal partners to obtain commitments from them to better decisionmaking. We will track our progress and follow through with the commitments reflected in the national MOU.

Tangible progress will evolve locally, State-by-State, at different rates, based largely on the working relationships and the trust established in different States and regions.

In the mid-Atlantic region, for instance, Mr. Chairman, we are involved with all the States and the EPA, the Corps of Engineers, and other resource agencies to do a regional MOU so we cascade that national MOU down to the regional level and make sure that we are taking into account the regional variation across the country.

If used by the States, we believe allowing the resource agencies work for the added cost of streamlining to be eligible for Federal aid will address some of the staffing constraints that have held up projects in the past. We will work with the other stakeholders, as I said, to develop the performance measures and benchmarks for better environmental decisionmaking. This will all take hard work, trust-building, and successful partnering.

That concludes my testimony, Mr. Chairman. I would be happy to answer questions from you or other members of the subcommittee.

Thank you.

Senator VOINOVICH. Thank you, Mr. Conti.

Senator Graham came in.

Senator do you have a statement that you would like to make this morning?

**OPENING STATEMENT OF HON. BOB GRAHAM, U.S. SENATOR  
FROM THE STATE OF FLORIDA**

Senator GRAHAM. Thank you, Mr. Chairman. And thank you for holding this hearing.

I do have a statement that I would like to enter for the record, if I could just make reference to one portion of the statement for purposes of some questions that I will be asking.

This legislation had a number of parents. I would say two of those parents were Senator Ron Wyden of Oregon and myself, who worked during the course of the development of TEA-21 on this particular section.

We had some objectives in terms of this legislation which I would use as the basis of my questions.

The first of those objectives was to try to bring the various environmental permitting agencies, Federal and State, to the table at the beginning of a major transportation project, not, as has happened in a number of instances in the recent past, toward the end of the beginning—that is, at the point where a project that you have already invested several million dollars in design and several months or years in the process of preparation is then found to be fatally flawed because of its inability to secure necessary permitting. So one objective is to know what the reality of the world is before, not in the middle of a major transportation project.

The second is to recognize that oftentimes the environmental standards of State and local communities are similar, if not identical, to Federal standards, and how can there be a closer coordination of those so that there are not multiple parallel tracks being run.

So, with those two objectives of this legislation, my questions are going to be how well the implementation to date moves toward those objectives.

I might say I have had a brief opportunity to review the memorandum of understanding that you released earlier this week, and from that preliminary review it seems to be a very constructive document and contributes toward the two objectives that I outlined, and I was particularly pleased that there is one document which is going to be signed by Department of Transportation, Interior, Commerce, Agriculture, Corps of Engineers, EPA, and the Advisory Council on Historic Preservation. To get everybody in the Federal family committed to the same set of operating principles is very constructive, so we are off to a good start.

Senator VOINOVICH. Thank you, Senator.

Senator GRAHAM. Mr. Chairman, I would like permission to file the full opening statement, which is probably shorter than the extemporaneous one.

Senator VOINOVICH. We would be more than happy to do that.  
[The prepared statement of Senator Graham follows:]

**STATEMENT OF HON. BOB GRAHAM, U.S. SENATOR FROM THE STATE OF FLORIDA**

Mr. Chairman, I would like to thank you for holding this Subcommittee hearing today to receive testimony from the Administration regarding streamlining initiatives. I believe that all of us on the committee share the common goal of wanting

to help our States meet their transportation priorities in the most effective, efficient manner possible.

Mr. Chairman, When my good friend from Oregon and I started discussing this issue back in 1997, we had two major goals. First, we wanted to eliminate unnecessary delays to projects which waste millions of dollars of tax payers' money. Second, we wanted to eliminate duplicative review at the State and Federal levels. Many States including Oregon and Florida have very comprehensive environmental review for projects, and States should be rewarded at the Federal level by not being forced to repeat the process.

Senator Wyden and I then began brainstorming with the Administration, specifically the U.S. Department of Transportation and the Council on Environmental Quality, to develop a set of proposals which would establish partnerships with the Federal agencies, recognize the good work of States, and enact streamlining measures in the environmental approval process. If all the affected parties involved in reviewing a proposed transportation project are able to participate at the earliest stages of a project, unnecessary delays can be avoided. If the Federal permitting agencies can come to the table at the beginning, they will be able to help identify "fatal flaws" in a transportation plan. This would mean the State and local communities would have the opportunity to rework a project without spending many years and millions of dollars on design and engineering only to be told an endangered species is involved.

With the passage of TEA-21, we achieved a first step toward meeting our goal for streamlining. The TEA-21 debate allowed everyone to talk about the project delivery process and how we can all make the system better.

Mr. Chairman, States are now trying to accomplish some of the goals that we envisioned in TEA-21. My State of Florida has already begun speaking with the agencies about developing partnerships so they can be involved in our projects from the beginning. I would like to share one example of the "partnering approach":

*Example—Suncoast Parkway.*—Last year, construction began on the Suncoast Parkway, a 42-mile tolled expressway, which is being constructed primarily through undeveloped portions of Hillsborough, Pasco and Hernando Counties. Final design of the project required permit and mitigation approvals from the U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, Southwest Florida Water Management District and the Florida Game and Freshwater Fish Commission, as well as concurrence reviews from the U.S. Fish and Wildlife Service and the Florida Department of Environmental Protection.

Permitting and mitigation approvals of the final design of a project usually paces the production schedule. This is due to not having the required design detail, needed to prepare the permit applications, until the plans are at least 60 percent complete. It was believed that the completeness of permit applications and the efficiency of agency reviews could be improved with early coordination, improved communication and a better understanding of process and regulatory requirements. These goals were the catalyst that lead FDOT to pursue an interagency/design consultant partnering charter.

The initial partnering orientation meeting was held with FDOT's representatives and the environmental regulatory and resource agency' representatives to establish the partnering concept and initiate the team building process. The design consultants were brought into the process later, as their contracts were executed.

My State has seen many clear advantages to this combined partnering team. Difficult elements of permitting, mitigation, protected species coordination, wetland avoidance and minimization design, wildlife issues and bike trails all moved forward and were enhanced by the level of cooperation and communication that was fostered by the partnering process.

Even with the partnering process in place, unforeseen permitting delays still occurred. These permit challenges were positively resolved. The resolution process was favorably influenced by the cooperation and knowledgeable assistance of partnering members who were able to share and apply the project insight gained over several years of hands on effort.

Mr. Chairman, I share this example with you to highlight that early involvement helps project delivery and even if permitting problems occur, if the parties involved have been working as partners, a solution is much quicker and easier to achieve.

Mr. Chairman, I am pleased to see the "Final Draft" version of the Memorandum of Understanding (MOU) developed by the Administration. Having one MOU signed by all the agencies involved in project approval is a vital first step to achieve streamlining. I believe the Administration should look at how States can be rewarded for doing exceptional environmental review at the State level, and trying to not make them subject to a duplicative review at the Federal level. USDOT should establish a pilot process which would allow States to develop their own partnering

program with Federal and State agencies. The pilot State would then be able to share their experiences with other States to help identify what approach may be successful. Finally, Some form of performance measurement must be developed so we may know if meaningful improvements have been achieved. Possibly a stakeholder satisfaction survey or other means of ensuring that we don't wind up with more complexity rather than true streamlining.

Mr. Chairman, I look forward to hearing the testimony from today's witnesses, and working with them as partners to achieve a more efficient system of project delivery.

Senator VOINOVICH. I have got four questions. The answers should be pretty easy.

First of all, what is the schedule in terms of completing the signed memorandum of understanding that is called for in section 1309, No. 1?

No. 2, in testimony it is said that they are planning to publish a notice of proposed rulemaking this fall, but that you expect that the rulemaking will take some time to complete, due to its complexity, and the question is: how long is it going to take for the rulemaking? When are we going to see the rules?

And, No. 3, what would be a suitable time to bring you back in to talk to you again about how we are doing?

And, last but not least, the fourth one would be the issue of baseline benchmark. Part of the problem that I see with something like this is that there needs to be an understanding of where we are in terms of moving projects along, and then of setting a benchmark, if they are out there, as to what it is that we would like to achieve, and be able to come back 6 months or a year from now and say this was an objective standard that we set down to evaluate this, and so we can do it in a constructive way rather than having people come in and making statements about this and that and, you know, it is like sometimes off the wall because it is not in reference to something. I would like to have an understanding of what it is that we are going to use to measure progress in this area.

Mr. Conti.

Mr. CONTI. Mr. Chairman, let me address those first, and then I am sure if Mr. Frampton would like to add to it that would be fine.

As far as the MOU is concerned, I think we are anticipating signing it as soon as possible. We believe that there has been a lot of staff work put into this. All of the agencies have worked together on it. It is not a question of now going and convincing people to sign it. They have all been involved in drafting it, so I hope that that would happen very shortly, in the next several weeks, if not sooner.

On the notice of proposed rulemaking, we will hope to get that out in the fall. That is our commitment.

As complex as this rule is, incorporating a lot of issues, the planning process and the environmental process, we need to allow time for appropriate public comment, and continue the kinds of dialog we have started with our stakeholders. This will be a joint rule, I believe, from Federal Transit Administration, and the Federal Highway Administration, so it covers not just one type of project but really the whole range of surface transportation projects.

I hesitate to commit those agencies to a specific date, but my hope would be that certainly by next spring or next summer we

could have a final rule moving forward. But, again, I cannot commit those agencies to that. I believe at the Secretary's level and the Office of the Secretary we will push as hard as we can to get it done as soon as we can, because I know there is a lot of interest in getting the rule out there so people know what the game plan is in terms of following what they need to do to move those projects forward.

In the meantime, I would say we are working with a number of States, local governments on these pilot concepts. We have put out the best practices kit. Our sense is that we should continue to work with people that want to come forward with innovative ideas and not wait to do a lot of pilots and then develop a rule. We have to do both things at the same time—work with people who are interested in moving forward, and also develop the national rule, the rulemaking process that will put the system in place nationally that people operate under. So, again, we will push as hard as we can. We are focused on getting the notice of proposed rulemaking out this fall and then move forward with the stakeholders in trying to get it done finally as soon as possible.

Senator VOINOVICH. Well, I just might comment that I found, from my experience, it is nice to have an agency make a commitment that we are going to set a goal for "X" date, because if you do not sometimes it never gets done, and there are lots of things that are constantly coming, and, in order to get the priority, it would seem to me that we ought to get some kind of an indication from them when they want it done.

Mr. CONTI. All right. I think that is fair, Mr. Chairman, and I will come back to the committee with some suggested dates. But, again, I have not talked to the administrators of the two agencies to have that discussion, and I think I need to do that with them and then come back to the committee and say we will propose this date to get this process done.

As far as when to come back and talk about this again, I am certainly willing to come back whenever the committee wishes me to. I would think some time this fall may be appropriate to revisit to see whether we have made progress on the notice of proposed rulemaking, where we stand with some of the stakeholders, discussions that we have had, and so on. I think that would be appropriate some time this fall to come back and have another discussion about these issues.

As far as benchmarking, I agree with the chairman and others that this is an important piece of the puzzle. If you do not have the benchmarks, you cannot measure your performance because you do not know where you are starting from, so I would hope that we would move forward very quickly on that. We can modify things as we go along, but we need to start and have a benchmark that says, "Here is where we are," and sets some performance goals.

We are very active in the Department across a whole range of issues under the Government Performance and Results Act, and this seems to me to fit exactly within that framework, and so we would hopefully develop those benchmarks very quickly.

Senator VOINOVICH. Well, I would hope that—a final comment from me—I am interested that 90 percent of the projects just roll, and then there is 10 percent, and finally it is 3 percent, and I

would hate like heck 2 years from now, that we find that, you know, it is only 80 percent of projects.

Mr. CONTI. Right. That would not be an appropriate outcome, Mr. Chairman.

Senator VOINOVICH. Right. Mr. Frampton, would you like to comment?

Mr. FRAMPTON. Well, Mr. Chairman, just a comment on benchmarking, because I think that, you know, this Administration has tried to be much more conscious of performance-based programs in the last several Congresses in GPRA and pushed the executive branch to try to develop benchmarking as a way to have some objective measurement of how we are doing in some of these programs.

I realize, in the course of preparing for this hearing, that this is an important issue. The letter that a number of the Members wrote to me and Secretary Slater on June 1 mentioned one approach to benchmarking.

But it seems to me that inherent in 1309 are a number of different ways that we could benchmark progress here. One is simply to compare—look back in a year or two and compare projects against like projects for total time to the end of an EIS process and a record of decision, but there are other ways to do that, and the idea of sort of a survey is an interesting idea.

There are also some objective measures here. For example, 1309 specifically allows integrated time tables to be set. So one of the benchmarks for new projects is were time tables set, and then were extensions granted or not.

Another provision in 1309 is the provision for agency funding. Was funding extended to make it possible for the resource agencies to come in early? And, of course, for new projects, has a memorandum of agreement been signed and have the agencies come in at the beginning and tried to identify all the issues and integrate their various permitting processes?

So there are probably four or five ways that we can benchmark whether the statute is actually being used, and I think that, you know, we ought to go forward and try to develop some of those ideas a little more fully.

Senator VOINOVICH. Thank you.

Mr. Chairman.

Senator CHAFEE. Thank you, Mr. Chairman.

I find this whole area is a little bit murky, and I am not sure I understand it totally.

I was very interested in Mr. Conti's page 7, in which you point out that 91.5 percent of the projects were categorical exclusions, 6.1 percent had no significant impact, and so that gets you down to 2.4 percent of the projects require the full impact statement, and those are—obviously, that tiny little group, the 2.4 percent, are the ones that cause the frustration that Senator Thomas pointed to.

And then, actually, the amount of money that is spent on that group is a little bit higher, percentage-wise, but not terribly—well, 13 percent is not a big chunk out of the total.

But if I understand what we are trying to accomplish here, it is that when we come to build these highways—let us take the highway situation rather than mass transit—when we come to build

the highways, suddenly we discover there are some Indian artifacts there or you have got a wetland or you have got maybe a Superfund site there, and, if I understand what you have set out as your goal, you are going to get the parties involved—I guess they are called stakeholders—and, frankly, the State, for example, who is more deeply interested in the Indian artifacts, and get them at a table to try and see how you are going to do all this.

Am I on the right track? Is this what you are talking about, Mr. Frampton? You are sort of a catalyst or an expeditor, I presume, in all of this? You are the one that gets DOT and the State DOT and the State historic preservation group to sit at this table? Is that your job?

Mr. FRAMPTON. Well, ultimately I think it is CEQ's responsibility to try to see that the agencies are doing that, with roughly 750 to 1,000 EISs moving through the process at any one time. We need to ensure that the agencies have processes and a sensitivity in the big projects to get everybody together at the beginning and to try to identify the issues and the agencies, State and Federal, who are going to have an interest, and see if an integrated process cannot be developed.

Now, sometimes that has been done in the past, often it has not been done, and 1309 provides some additional tools to make sure that that happens, and I think it is our responsibility to try to maximize the chances that those tools get used, that the tools are fleshed out in an effective way and that they get used.

Senator CHAFEE. What do you say to that, Mr. Conti?

Mr. CONTI. Well, I would like to add to that, Senator.

Senator CHAFEE. First of all, do I understand this thing correctly? Have I phrased it correctly?

Mr. CONTI. I think the key—and I think you said it in your opening statement—is early involvement of the affected parties and stakeholders, and where we have seen evidence that this process works best is when you get people to the table early and involve them in the process of developing the project and scoping and all the work that needs to be done through the planning process so when you get to the NEPA review, if that is necessary, people are aware of what the issues are and they have already thought about ways to work through them and to mitigate them, if necessary, and so on.

So I think the key is early involvement of all the agencies, of all the other stakeholder groups. If it is an Indian artifact issue, you have got to involve the local tribe or whoever is interested in those artifacts, so I think that is the key—early involvement of all the affected and interested parties.

Senator CHAFEE. And then you could explore alternatives, also.

Mr. CONTI. And explore alternatives. Absolutely, that is required. If you get to the point of having an EIS, you have to look at all the alternatives.

Senator CHAFEE. Well, I think it would be interesting, as the chairman suggested, that you come back up here and we will see how all this is working out. It all makes such sense, I must say.

I suppose, from your experience, probably the presence of wetlands is one of the most common problems you run into; is that correct?



Mr. CONTI. That is a common problem, and, of course, that is generally a Corps of Engineers issue. We have had some recent discussions with the Corps. I think they are very much on board with working with us to address those issues early on in the process.

There is a lot more information available today, Senator, than there was 10 years ago or 20 years ago in terms of geographic information systems and other data banks that have a lot of information in them. We know a lot more about the topography and the environment in terms of surface transportation than we did a while back, so we ought to be able to use that information to inform the process early on and to move forward and either make a decision that we are going to move this project or not, you know. If there is too much environmental impact, somebody needs to be able to say, "No, we are not going to do that project. We are going to do an alternative."

Senator CHAFEE. Well, thank you very much, Mr. Chairman. Again, I want to applaud you, and I hope Mr. Conti does come back up whenever you think it is appropriate.

Senator VOINOVICH. Thank you.

Senator BAUCUS.

Senator BAUCUS. Thank you, Mr. Chairman.

I, frankly, in my review of the environmental streamlining memorandum of understanding, thought it was fairly artfully drawn. That is, the good news is it is vague, and the bad news is that it is vague. I mean, the good news is it enables people to do things, flexibility, and there is less accountability. The bad news is there is less accountability.

It would mean more to me, frankly, if we had a better idea, when you come up with your final version, of exactly what dates by which the Department—the Federal Highway Administration, intends to accomplish certain objectives. For example, there are no deadlines here. There are none, whatsoever. And I think deadlines are very important for a lot of reasons. They show everyone involved that, "Hey, we are serious."

Second, it enables everybody to look at a date by which they can determine whether or not something has been accomplished or not. For example, does the Department want to reduce the time devoted to EIS by 10 percent? Do they want to cut it down by 10 percent or 20 percent or 30 percent or what? I mean, I do not know what is involved here. And does it want to reduce the approval time for amendments to State transportation plans by 10, 20, 30 percent? I do not know. Nobody knows.

And my view is, without knowing, giving it your best guess, your best shot, that we are probably not going to get much accomplished here.

We have all been around a long time. We all know the road to "you know where" is paved with good intentions, and it is good intentions, but things happen, and our goal here is to try to accomplish what we are talking about here.

So I, personally, would like to see more specificity. I just believe in names, data, and dates if you want to get something accomplished. Instead of just talking about something, it is action, and I do think we should move more in that direction because that will tend to force things. It could more earlier force the right accommo-

dation between environmental protection and reducing unnecessary delay.

I just, frankly, believe that a lot of EISes just take too long. They just take too long. And the more I think about it, the more I think it is great for contractors. They love it. They get paid more. They can bill more.

Frankly, it might be a good way to protect taxpayers' money to set some deadlines, too, because it forces the contractors to do EISes, to be more efficient so taxpayers are getting their money's worth a little more, let alone reduce some of the heartburn, to put it mildly, that a lot of people go through because they never know when the EIS is going to come out. There are dates, but they are extended and things happen again.

So I would just like to see some more dates and more deadlines and goals stated in terms of numbers, not just vague generalities.

Mr. CONTI. Thank you, Senator. I will just comment on that. I think what you are talking about is really the benchmarking process and setting the performance goals.

Senator BAUCUS. Right, but you do not do it in here.

Mr. CONTI. We do not do it in the memorandum of understanding.

Senator BAUCUS. No. You talk about it in your statement, but you do not put it in your memorandum. So can we expect to see some numbers?

Mr. CONTI. I think you would expect to see, and I have said we intend to do the benchmarking and then set the performance goals.

Senator BAUCUS. Good.

Mr. CONTI. And certainly those will have numbers and dates and goals that are real, that represent moving from where we are to where we want to be.

Senator BAUCUS. OK. Good.

Second question I would like to ask about one of the points in the MOU, on the second page it says, "Assess alternative actions and select the action that is in the best overall public interest."

My question is: does the action refer to the action of Federal agencies, or does it refer to a project selection? That is vague. I do not know what that refers to. Do you see it there? Second-from-the-last——

Mr. CONTI. Right, second-from-the-last, assessing alternative actions.

Senator BAUCUS. Yes.

Mr. CONTI. That, to me, means the decision of whether to consider alternatives to a specific project proposal.

Senator BAUCUS. Well, as you know, project selection has been the province of States.

Mr. CONTI. It is.

Senator BAUCUS. So you want to change that?

Mr. CONTI. No. I think, again, this is a process where—by ensuring broad stakeholder participation—the projects are selected by the States, but if they selected a project that was totally in violation of whatever environmental laws, we could not let that go forward. We need to work with them on the alternatives that are available.

Senator BAUCUS. I appreciate that, but this has the implication of going significantly beyond current practice; that is, current practice is States work with the relevant agencies to ensure sufficient environmental protection is involved. This goes on to suggest—and you tend to confirm it, which causes me some concern—that you want to assess alternative projects, not actions by Federal agencies.

Mr. CONTI. Let me be very clear. We are not intending to select projects. The project selection and the whole process of design and everything is controlled by the State.

Senator BAUCUS. So you want the current practice where States select projects?

Mr. CONTI. Absolutely.

Senator BAUCUS. Good. I just wanted to double check that. And my third question goes to an apparent change, which is causing States to pay money up front, contrary to current practice, and that is regarding the use of highway funds, State highway funds that States have to imburse Federal agencies for streamline reviews. It seems that States are now asked to pay up front for Federal positions with State funds for the entire year, rather than using the usual invoice and reimbursement system. That is happening, for example, in my State, expecting TEA-21 to pay for a Federal employee to review projects.

Currently, apparently the State is paying up front for the use of Fish and Wildlife Service to review impacts of projects on bull trout, and Fish and Wildlife is trying to get a similar arrangement as Federal Highway has with the Corps of Engineers for wetland reviews.

Now, why are we doing that? The usual practice is to reimburse on a timely basis, rather than paying it all up front.

Mr. CONTI. Yes.

Senator BAUCUS. Is not that wrong-headed?

Mr. CONTI. Well, I think that is—I was not aware of that, Senator. I appreciate your bringing it to my attention. My reaction is that that sounds like one of the issues raised by some of the other witnesses in the April 29 hearing, I believe, where we do not want to see these resources for transportation infrastructure be diverted to just support other Federal agencies' administrative budget.

Senator BAUCUS. Right.

Mr. CONTI. So I will commit to you to look into that issue—

Senator BAUCUS. I appreciate it. Take a hard look at that one.

Mr. CONTI [continuing]. And take a look at it.

Senator BAUCUS. Yes.

Mr. CONTI. I was not aware of that situation.

Senator BAUCUS. OK. I appreciate it. Thank you, Mr. Chairman.

Senator VOINOVICH. Thank you.

Senator BAUCUS. And thank you, Mr. Conti.

Senator VOINOVICH. Mr. Thomas.

Senator THOMAS. Thank you, Mr. Chairman. I just have one comment, because I have to scoot.

You are familiar with the American Association of State Highway and Transportation Officials. They say in some of their communications the number of the options on planning, environmental rules and processes, as identified in the option paper appear to increase rather than streamline Federal regulatory process and re-

quirements and would restrict State authority, contrary to the direction Congress took actions on TEA-21, and that these were put together without apparent consideration of that organization's comments.

How do you react to that?

Mr. CONTI. Well, we have had several discussions with the AASHTO leadership and representatives from the various States about that. The option paper did create a lot of controversy. It was put out as an options paper. It had a range of alternatives. It certainly does not reflect the kinds of discussions we have had since the options paper came out. As recently as Monday, I believe, AASHTO representatives met with the Department and we had very good discussions about where we are going and the direction we are taking. I am not sure that statement reflects their current thinking but, I think we have had a good relationship with AASHTO and we will continue to work with them on it.

Senator THOMAS. Well, I am not talking about relationships, I am talking about this particular issue in which you apparently went forward without involving them particularly, which is strange to me. If there is anybody that works closely with the States, I would think it would be you with the State officials, and to come up with a comment like that, do not you think that is a little strange?

Mr. CONTI. When the options paper came out there was a lot of controversy and misunderstanding about our intention. The discussions since then have clarified that, and they have said they are pleased with the discussions they have had. Their views are being taken into account.

Senator THOMAS. OK.

Thank you, Mr. Chairman.

Senator VOINOVICH. Thank you.

Senator Graham.

Senator GRAHAM. Thank you, Mr. Chairman.

One of the other suggestions of the State-based groups—and it was incorporated in the letter that several of us signed on June 1—was that the Department look to pilot projects to investigate new methodologies in order to gain some real-world experience with the application of these streamlined policies to specific transportation projects. What is the feeling of the Department about that recommendation?

Mr. CONTI. I think we are very supportive of that recommendation. As I said earlier, we want to proceed on the overall rule-making, but we do not want to stop people from doing good things and creative things in the meantime, so we have put together this successful practices tool kit to encourage people to move forward, and your witness from Washington State certainly made an eloquent statement about what they have done in Washington State in terms of looking at whole watersheds in a very comprehensive planning process, transportation included. We have worked with the mid-Atlantic States, to move forward on a regional MOU.

There are a lot of good examples of people taking the existing practices and moving forward in a creative way and in a way that expedites projects but continues to protect the environment.

So we are very supportive of that notion and will continue to work with all the parties who are interested in doing that kind of thing.

Senator GRAHAM. When you use the word “we,” is that the family of agencies that are going to sign this MOU, or is that the Department of Transportation, specifically?

Mr. CONTI. Well, I only speak for the Department of Transportation, but we are the lead agency in this effort. I have noticed no reservation on the part of other agencies to move forward in that way. In fact, in a lot of cases the Corps of Engineers or EPA—I mean, it depends on the specific issue, but we have had good co-operation in moving forward on some of these pilots from the other resource agencies, so, again, I think it involves everybody, but I am speaking specifically for DOT as the lead agency, that we are going to push that process forward.

Senator GRAHAM. I think you sense, from questions, an urgency to get on with this business. I was concerned with the fact that the legislation that we are looking at now is approximately a year old. In fact, I believe in your statement you indicate that this is the anniversary of that.

Mr. CONTI. Yes, Sir.

Senator GRAHAM. And yet it was not until some 10 or so months after the signing of the bill that the first gathering of the people who would be involved in this particular streamlining provision took place.

I think it is important that together we keep this process moving on a streamlined level, itself, to achieve the objective of streamlining, and some of the components of that would be review of the regulations, either as proposed or as submitted for adoption, questions of details of adopting a pilot project approach, issues of setting up performance standards, including some benchmarking standards, so that we all know what the clock is, the calendar that we are going to be looking at.

Mr. Chairman, I would hope that maybe some time shortly after we return after Labor Day, more-or-less 90 to 100 days from now, that we might be able to have a hearing and get a report as to progress on all those fronts.

Senator VOINOVICH. It seems to be a reasonable time period.

I think it is really important that we move along and that we get started and make sure that this thing is—all the bumps and things are worked out as early as possible.

Mr. CONTI. Well, I think it is important too, Mr. Chairman, and I do not necessarily enjoy having my feet held to the fire, but I think it is important that you do that, that you keep us focused on this, and I can assure you that the leadership of the Department will remain focused on it, but it certainly does not hurt to have us come back up and keep you informed as to what progress we are making.

Senator GRAHAM. I would like to add one other box to your assignment, and that is, as you are looking at this implementation, you—and in this case I mean the collective “you,” the family of Federal agencies—would also be looking at the law, itself, both the law that is in TEA-21 and the individual laws, whether they are historic preservation laws or wetlands laws, to see if you would rec-

commend any changes in those laws toward the goal of enhanced efficiency in their program application, because I think those who work with the laws are generally in the best position to be the commentators and critics and advisors on reform of those laws.

Mr. CONTI. I think that is an excellent idea, Senator.

Senator GRAHAM. And, if I could also give a homework assignment to Mr. Frampton, while we started this process streamlining in the Department of Transportation, because, probably, among the agencies it is one of the areas most affected, and also because we had the reauthorization of the Surface Transportation Act before us, it is not unique to Transportation. I would hope that, as we go through this process on streamlining and transportation, that you could give us your thoughts as to other areas of Federal activity which might also benefit by the application of some of these principles.

Mr. FRAMPTON. Senator, we are trying to look at that in a number of other areas—for example, gas pipeline permitting, which has a similar array of State and Federal agencies and laws and environmental reviews that need to be integrated.

I just want to comment on the pilot project question that you had. You know, I think this national MOU approach enables the Department of Transportation and the States to use—make every project a pilot project in one way or another, because it creates the framework for trying to use some of these tools in each and every new project.

So I would hope that we would not necessarily have a select number of pilot projects, but we would start having every new major project be a pilot project.

Senator GRAHAM. Well, I would agree the goal would be to have every major project be subject to this kind of new approach, but the reality is that is not going to happen, at least in the initial stages, and, rather than await the day when you can make it applicable to 100 percent, if you could pick out the 5 or 10 percent of the projects in the next 12 to 24 months to which this would be the most useful—and if you want a list from Florida, I can provide you with a list you can start with—then at least we would be getting some experience in a real-life setting, which might accelerate the day when that real-life experience would be universally applied.

But if you and Mr. Conti, when you come back after Labor Day, have some other ideas that achieve more fully the objective of expediting the application of this, Sir, we would be open to those ideas. We are all in somewhat of a learning curve process.

Senator VOINOVICH. You know, it might be interesting just to comment that there are—in the 3 percent area where there have been problems, I am sure there are some that the Department is very familiar with, and I am sure you could do a little survey in the States. It would be interesting to look at those projects and ascertain how this new system would have made that situation better.

When Mr. Conti and Mr. Frampton were in to see me—I met with them individually—I talked so much about interpersonal relationships with people, and so often you can have all this laid out in statute and rules, regulations, but if you do not have a good re-

lationship between the partners in the beginning, a lot of these things just do not work.

It seems to me that probably as important as the memorandum of understanding and so forth is the benchmarking of successful projects around the country, and to share those good experiences with State agencies to see if they cannot copy those successful projects.

I think the point you made, Mr. Frampton, is well taken, and that is we need a memorandum of understanding on every project and get everybody in the room to talk about it. That may be the No. 1 thing. Have you had that first meeting? And who are the players, and so on and so forth, to begin at that level?

After that, if they get along, wonderful; if they do not, then that is another problem.

But I think that that part of this cannot be ignored, and I think that we should create an environment where that will take place as much as possible.

Senator Smith, thank you for being here today.

Senator SMITH. Thank you very much, Mr. Chairman.

Mr. Conti, let me ask you a question on the environmental impact study review process. The average duration I think you said in your testimony was 4 years, but that is the average. You know, a lot of them take much longer than that.

Obviously, our constituencies think it is much too long. Would you agree with that?

Mr. CONTI. Well, I think the intent of the Congress—and certainly the Administration supported this section, the CEQ worked with the Congress in developing the language—of course we think it is too long, and that is one of the areas we want to figure out.

Is that the real benchmark? We do need to look not just at averages, but maybe categories of types of projects or some way of arraying them, and then set those benchmarks and set performance goals for reducing that amount of time.

Senator SMITH. So if the average is 4 years, as a benchmark do you feel you would be attempting to go below that?

Mr. CONTI. Yes, Sir.

Senator SMITH. Let me just give you an example—and this may be more appropriate for Mr. Frampton to answer—we have a project in New Hampshire called—it is always a very difficult word for me to pronounce—“Circumferential Highway” in Nashua. It went through the planning and review stage process for more than 10 years, received all the permits from the Corps of Engineers, and then just almost moments before it was to be moved forward the EPA came in and exercised its veto authority over the entire project because of a—well, it is a long story. I am not bringing it up as something for you to look into; I just bring it up as an example of the frustration that happens with this conflict constantly between Federal agencies.

It just seems to me that if the information at your disposal was to veto that project—and I will use it as an example—at EPA it seems to me that could have been known long before all the permits were issued and everything else happened.

So the question is: what mechanism will you be using to deal with these types of disputes so that we can try to resolve them in

a more timely manner to avoid that kind of confrontation? And it sincerely was confrontation, I can tell you.

Mr. FRAMPTON. Well, Senator, I also share your frustration. In fact, after 4 years at the Interior Department being on the waiting end or the receiving end for some of these EISs and to find other agencies coming in at the end, I know how frustrating that can be.

I think the statute was designed, obviously, in some very substantial way, 1309, to deal with that problem and to create a process in which all the Federal agencies that have environmental review or permitting authority come in at the beginning, and the statute is supposed to provide tools to make sure that happens.

We talked about this a little bit earlier. One of those tools is this national MOU, which is a framework for an MOU on each project that tries to guarantee that everybody who has any kind of a legal responsibility here, authority, is in at the beginning, the timeframes are set for those people to identify their issues right up front, and if they do not identify those issues, then, you know, the issues do not get into the process so you do not have surprises five or 6 years down the road.

So I think the national MOU is one mechanism for that. Time lines are another mechanism. And trying to provide some funding for the resource agencies to be there at the beginning and identify their issues at the beginning is a third tool.

I think we are trying to use all of those tools in this process to make sure that exactly the situation you have described does not happen in the future.

Senator SMITH. I understand you are trying to cut down the time on this, and I am not bringing these matters up to pound on you, but, as a source of frustration, if you can imagine you are the State highway department of any State, and I just put together a series of agencies here in the scenario that you want to build a highway from point A to point B. You have got the Environmental Protection Agency, the U.S. Corps of Engineers—theoretically, you could have all of these involved—the Environmental Protection Agency, U.S. Corps of Engineers, U.S. Coast Guard, U.S. Fish and Wildlife Services, and all of their companion State agencies, that each require a separate review and a separate approval process, which forces separate reviews of separate regulations and requiring planners to answer requests for separate additional information in each one of those cases. And if the agencies issue approvals according to separate schedules, then the time period between the project from beginning to completion is at least 10 years, and that is assuming that the project is not controversial. If there is some controversy involved, and is adequate funding available, and all those other things, then in that case you could go beyond that.

It just seems to me that in these memorandums of understanding, or however you do this, if you are going to build a highway going from point A to point B, and it is the proposal from the State to do it, if there is something environmentally sensitive there that cannot be resolved or no one feels that it can be resolved, then let us not build a highway there, but let us not get started with all of the approvals and all the processes.

I mean, I have seen it happen to 101 in New Hampshire, as well, from east to west of the State where, after the highway was begun



and after we drew the line on the map and after we built two-thirds of it, we then decided that there was some other environmental problem and it delayed it and delayed it. We lost a lot of people in traffic accidents as a result of the construction there and the fact that the highway was disrupted.

It just seems to me that we ought to be able to lay this out and make these decisions before we start work, and that is the frustration.

I mean, if you can imagine—and you know, Mr. Frampton, somebody from the agency, the EPA, comes in at the last minute and says there is an environmental problem on this highway after you have done 10 years of work and research and so forth, it is—there has got to be a better way. There just has to be a better way. I mean, you guys are smart enough to figure out a better way, I think.

Mr. CONTI. Well, we are trying. I think your point is that we need to get away from the sequential review process. That is exactly what the intent of 1309 is—to get concurrent actions, to get everybody together early to identify those issues that you just talked about, so that is certainly our intent—to pursue that course of action.

Senator SMITH. One final thing, Mr. Chairman.

I think the real frustration is that each one of these agencies and each one of these reviews and adjudications and approval processes, they all involve lawyers and planners, and everybody has got to go through the same process over and over and over again. It just seems to me that there ought to be an opportunity for people to get together and do this in one or two steps rather than ten or twelve, if there are a lot of agencies involved.

Thank you, Mr. Chairman.

Senator VOINOVICH. Thank you.

Senator SMITH. I do have a statement for the record, as well, Mr. Chairman.

Senator VOINOVICH. Without objection, that will be entered.

[The prepared statement of Senator Smith follows:]

STATEMENT BY HON. BOB SMITH, U.S. SENATOR FROM THE STATE OF  
NEW HAMPSHIRE

Mr. Chairman, I want to thank you for holding this hearing today, so we can hear from the Administration on the progress of their efforts to implement Section 1309, the environmental streamlining provisions of TEA-21.

As you may know, I was directly involved in the development of these provisions, in partnership with my colleagues, Senators Wyden and Graham. The purpose of these provisions obviously was to expedite the delivery of transportation projects to the American people. We had, and still have, high hopes that this language will help put order and efficiency in the way transportation projects are reviewed by both State and Federal agencies, and as a result, reduce the time it takes to plan and approve a project.

The members of this committee recognize that every day counts when planning and constructing a highway or bridge in this country. The problem that was addressed in TEA-21 is a serious one. It now takes approximately 10 years to plan, design, and construct a typical transportation project in this country, with at least 4 of those years devoted to planning and review. I am sure that if each Senator contacted their own State transportation department, you would be horrified to find the number of transportation projects that are delayed due to overlapping and often redundant regulatory reviews and processes. These delays increase costs and postpone needed safety improvements that would save lives.

The delays are occurring because the development of a transportation project involves multiple agencies evaluating the impacts of various modes and/or alignment as required by the National Environmental Policy Act (NEPA). While it would seem that the NEPA process would establish a uniform set of regulations and submittal documents nationwide, this has not been the case.

For example, the Environmental Protection Agency, U.S. Corps of Engineers, U.S. Coast Guard, U.S. Fish and Wildlife Service, and their companion State agencies each require a separate review and approval process, forcing separate reviews of separate regulations and requiring planners to answer requests for separate additional information. Also, each of these agencies issues approvals according to separate schedules. The result: the time period between project beginning to completion has grown to at least 10 years assuming that the project is not controversial and there is adequate funding available. If either of these assumptions is not the case, the time period may be even longer.

In fact, there is an example in New Hampshire that these provisions are intended to correct. The Nashua Circumferential Highway project was in the planning and review phase for more than 10 years and had finally received all the necessary permits from the Corps of Engineers. Then, EPA came in at the last minute to exercise its veto authority over the project. Needless to say, this caused great frustration and anxiety for our State DOT and local officials.

TEA-21 will hopefully mitigate this situation in the future and improve the project planning process. This would be done by establishing a coordinated environmental review process within the U.S. Department of Transportation where all reviews, analysis, and permits are performed concurrently and cooperatively within a mutually agreed upon schedule by both Federal and State agencies with jurisdiction over the project. Effective environmental coordination as envisioned under TEA-21 will result in less staff time and expense for all the agencies and stakeholders in the NEPA process and reduce the time it now takes in reaching a final decision with respect to receiving project approvals and permits.

With that in mind, I look forward to hearing from our witnesses on the status of their efforts to implement these important streamlining provisions. Thank you, Mr. Chairman.

Senator VOINOVICH. I will build on what Senator Smith talked about. Part of the problem so often is getting an answer. I will never forget, when I first became Governor, we had an expansion of a runway at the Toledo Express Airport for an outfit called "Burlington." They moved to Ohio. When they were ready to issue the bonds, somebody from the Federal Government came in and said that there was an environmental problem. It was one of those things that had gone through the whole process and right at the end this problem arose.

In order to expedite the project, I had to finally get hold of the Vice President of the United States. They had some kind of a Cabinet council that resolved this thing.

The question I have is: is it possible in the Memorandum of Understanding that there be some kind of way of flushing out problems connected with the project, i.e., a public notice giving groups that may have a problem the opportunity to get involved early on. Then if there is a problem, we are going to get it dealt with earlier, unless there are extraordinary circumstances. Have some agreement that, Mr. Frampton, maybe you call the shots at the end so there is some finality to it.

People can file lawsuits; they can do all kinds of other things. These alternatives are still available to them; but, in terms of administrative mechanism, is it possible that that kind of thing could be reviewed. You can get some final decision on the situation where you have got some conflict?

Mr. FRAMPTON. I think ultimately, Senator, the problem is not so much at the end, it is at the beginning—that issues do not get

raised, and therefore do not have a chance to be resolved until the end of the process.

So if the issues get raised early and the State and Federal agencies are required to bring their issues forward early in the process, then it becomes clear that they cannot be resolved in some cases, perhaps, and an alternative project needs to be considered, or they do get worked out.

It is the late hit problem that seems to cause—from my understanding of this—that seems to cause the longest and most tortuous delays.

So if we can eliminate that—and certainly section 1309 is designed to do that—then we avoid the need for a sense that at the end of the process, cannot just somebody make a decision about this.

I mean, ultimately I am not sure that CEQ has the statutory authority to OK or kill major transportation projects, but what we can do is to try to see that the process goes forward so that the issues are raised early and the need for that does not come after seven or eight or 9 years.

Senator VOINOVICH. But the point I am making is that in this particular case they had—I think it was called a “Cabinet Council,” or whatever it is, where you have various agencies that are involved, and somebody had to get them into a room and say, “In terms of the Administration’s point of view, a decision is made and we are going forward with it.”

Now, that means, as I say, it does not eliminate people’s remedies in terms of lawsuits or anything of the sort, but at least it is an authoritative way of having one agency that is going in this direction, and another that is going in the other. Somebody has got to get them in the room occasionally and say, “I have listened to what you had to say about this, and the Administration’s position is this is it, we are going forward with this.”

Mr. FRAMPTON. When there are differences of view between and among Federal agencies, and particularly when there are different Federal agency views within the context of an environmental impact statement, then CEQ does have the authority and the responsibility and we do get involved and broker those issues. We are the sort of court of last resort for settling those disputes, and we do that.

Senator VOINOVICH. From my experience—if you are looking at the Memorandum of Understanding, you can get your own understanding out there with agencies. Say, “If you do not want us getting involved in this stuff, work it out, and here are some suggestions.” I think that is really important, from your perspective, as you look at the Memorandum of Understanding and the regulations, to get your input there.

Mr. FRAMPTON. We do that every day, Senator. And you are right—our message is usually, “Please work this out among yourselves so we do not have to get involved.”

Senator VOINOVICH. Right.

Senator Smith, do you have any other questions?

Senator SMITH. No, Sir.

Senator VOINOVICH. The other question I have is whether we have the information available to facilitate all of this. Has anybody

looked at whether it is going to take a whole bunch of more people to do this, or can we do this within the framework of the people that are already working in the agencies?

Mr. CONTI. I believe we can do this within the framework of the people and the resources available. As I say, I think some of the opportunities to provide reimbursement for staff work done by a Federal agency through the State highway formula funds and so on, that is an opportunity that we should use. I do not think we need to talk about major increases for Federal agencies. We just need to work smarter, we need to work better together, and I think we can get the job done.

Senator VOINOVICH. We had a saying in Ohio, "More with less and harder and smarter."

Last but not least, we sent a letter that Senator Smith signed, I signed, and Senator Wyden and Senator Graham, to the administrator, and I would really appreciate his getting back to us with a response on it, because it deals with some of the things we have talked about here.

Mr. CONTI. Absolutely. And we will try to get that back to you as soon as possible.

Senator VOINOVICH. Well, we really look forward to working with you, and I know this is a long process and it does not happen overnight, but this is the 1-year anniversary, and it would be great maybe on the fourth anniversary that we could look back and say, "Gee, because we have worked together and cooperated, we have really made a big difference in terms of highway projects in this country," and understanding that there is a whole lot more of them that we have, which makes the challenge even greater for us.

Thank you very much for being here today.

Mr. CONTI. Thank you, Mr. Chairman.

Mr. FRAMPTON. Thank you, Mr. Chairman.

Senator VOINOVICH. The meeting is adjourned.

[Whereupon, at 10:57 a.m., the subcommittee was adjourned, to reconvene at the call of the chair.]

[Additional statements submitted for the record follow:]

#### FINAL DRAFT

#### ENVIRONMENTAL STREAMLINING MEMORANDUM OF UNDERSTANDING

Section 1309 of the Transportation Equity Act for the 21st Century (TEA-21) calls for a coordinated environmental review process to expedite Federal highway and transit projects. The agencies below agree to streamline environmental review processes in accordance with TEA-21 and other relevant environmental statutes in ways that reinforce our Federal responsibility to protect the environment. To meet this commitment, we agree to:

##### *Reduce Project Delays*

- Identify solutions such as programmatic agreements to reduce unnecessary project delays, including delays caused by staffing constraints, and to amend rules and policies where needed without compromising environmental quality.
- Apply the necessary technical and financial resources to identify and resolve issues early, especially on projects that are not typical or have potential to create the most damaging impacts to the environment.
- Direct field organizations to work collaboratively to develop processes that assure the timely, cost-effective development of sound transportation plans and projects.
- Emphasize the use of concurrent review of plans and projects.
- Develop national procedures for dispute resolution and encourage the use of appropriate mechanisms and organizations.

- Provide timely review and constructive comments on transportation proposals focusing additional information requests to information which is needed to reach an informed decision.

- Support and encourage field offices to explore flexible streamlining opportunities on their own and with State transportation and environmental partners including developing MOUs to lay out mutual expectations, concurrent review within cooperatively determined timeframes, and funding agreements in support of streamlining (e.g. pilot projects to investigate new methodologies that lead to a single public interest decision to satisfy multiple agency requirements).

- Establish, with stakeholder input, goals, performance measures, and benchmarks to evaluate transportation and environmental decisionmaking

*Protect and Enhance Environmental Quality*

- Work with project sponsors to ensure that they comply fully with all applicable environmental laws, regulations, and policies, and address fully any information needs associated with such statutes by providing complete and high quality information within the relevant timeframes.

- Seek to identify information needs early so the relevant environmental statutes can be addressed fully.

- Recognize effective local or regional coordination processes that are currently underway, build upon and publicize successful practices, promote creative solutions and innovative methods that reduce economic and environmental costs.

- Assess alternative actions and select the action that is in the best overall public interest.

- Ensure broad stakeholder, including nontraditional, under served and under represented constituencies, and public participation throughout the environmental review process.

We will strive to ensure that transportation projects are protective of and more compatible with the natural and human environment and we commit to continuously improve and streamline the processes used to develop those projects.

U.S. DEPARTMENT OF TRANSPORTATION.

U.S. DEPARTMENT OF INTERIOR.

U.S. DEPARTMENT OF COMMERCE.

U.S. DEPARTMENT OF AGRICULTURE.

U.S. ARMY CORPS OF ENGINEERS.

U.S. ENVIRONMENTAL PROTECTION  
AGENCY.

ADVISORY COUNCIL FOR HISTORIC  
PRESENTATION.

U.S. DEPARTMENT OF AGRICULTURE.

U.S. SENATE,  
*Washington, DC., June 1, 1999.*

Hon. KENNETH R. WYKLE, *Administrator,*  
*Federal Highway Administration,*  
*Washington, DC.*

DEAR MR. WYKLE: We are writing today to express our ongoing concern with regard to the implementation of Section 1309 of TEA-21. It is imperative that the planning and environment provisions of TEA-21 be implemented to streamline and expedite, not complicate, the process of delivering transportation projects.

We are concerned that the options paper recently circulated for comment by the Federal Highway and Transit Administrations will not effectively streamline the process as the language under Section 1309 had intended, but rather increase the time it takes to complete planning and construction on highway projects. We heard the following concerns which were raised by various witnesses and interested parties at the April 29 Subcommittee hearing and request that you carefully consider the following:

- The Department of Transportation should move forward with a Memorandum of Understanding/Memorandum of Agreement with input and review from Congress and the States to be signed by all Federal agencies. This should be a principled MOU/MOA with stated goals and intent as related to streamlining. Such goals and intent should include a commitment to: (1) finding and eliminating any conflicting or incompatible regulations and agency procedures; (2) omitting redundancy and steps that do not add value to the process; (3) providing timely review and decision-

making and a single public interest finding under NEPA; and (4) providing clear and consistent guidance. USDOT should take the lead in ensuring that the principles in the MOU/MOA are carried out.

- The Department of Transportation should look to pilot projects to investigate new methodologies that lead to a single public interest decision to satisfy multiple agency requirements and expedited approval. These pilot efforts can be used to help move toward greater flexibility for the States and resources agencies in areas such as Section 404 wetlands permitting, the National Pollutant Discharge Elimination System (NPDES), and Section 106 of the Historic Preservation Act.

- At a number of points in the options paper, USDOT indicates that it will consider requiring NEPA analysis or elements of NEPA analysis in the planning process. Any such initiative by USDOT could complicate planning by adding new layers of analysis to the planning process, resulting in delay. Although States should be allowed the flexibility to begin the NEPA process when it is appropriate for the parties involved with a project, TEA-21 specified in several places that approval of plans and programs is not required to be subject to NEPA. Thus, these options are contrary to Congressional intent.

- The options paper would have the Federal Government establish particular requirements as to how States and their political subdivisions should consult with one another, although the applicable provision in TEA-21 says that the USDOT is not supposed to specify the form of these consultations.

- It was suggested that a mechanism should be established to measure or "benchmark" progress in the implementation of streamlining. Proven survey research methods could measure in a statistically valid way whether or not all parties with a role in the review process are participating in a constructive manner. A survey could ask both project sponsors and project reviewers their perception of the time required to complete various phases of a project, perception of attendance and constructive involvement at key meetings, perception of response times to correspondence and other contacts, and the degree to which groups respect one another's core responsibilities yet are willing to work toward reasonable and cooperative solutions that all parties can support. The survey could also ask what specific steps each group is taking to streamline the process as mandated by Congress and what progress they have achieved.

An initial survey could be developed and conducted within 4 to 6 months to develop a valid baseline for future comparisons. Subsequent surveys could detect both changes over time and variances among regions of the country. A task force of essential stakeholders could create the survey and review all questions for fairness and thoroughness, with a respected organization such as the National Academy of Sciences managing the measurement system on a long-term basis.

We look forward to your review of these proposals as well as your testimony on June 9 before the Subcommittee on Transportation and Infrastructure.

Sincerely,

BOB SMITH.  
RON WYDEN.  
GEORGE VOINOVICH.  
BOB GRAHAM.

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STATEMENT OF GEORGE T. FRAMPTON, JR., ACTING CHAIRMAN, COUNCIL ON ENVIRONMENTAL QUALITY

I am pleased to appear before you today to discuss the environmental streamlining provisions in the Transportation Equity Act for the 21st Century, more commonly known as TEA-21. As you know, the Administration believes that this legislation is critically important to the environment as well as to the economy of this country. The TEA-21 legislation supports a variety of initiatives directed to the full range of transportation alternatives—from highway construction, to mass transit, to bicycle paths. An important goal of the legislation is to protect and enhance communities and the natural environment as we provide the Nation with effective transportation and enhance economic growth.

You asked in particular that I address issues related to Section 1309 of TEA-21. I will be happy to do so. As you know, CEQ worked closely with the committee in shaping the provisions of Section 1309. Many of the provisions codify in either letter or spirit CEQ regulations implementing the procedural provisions of the National Environmental Policy Act (NEPA). Our regulations were designed with the goal of reducing delay in the environmental review process. Specifically, Section 1309 mirrors CEQ regulations in viewing the environmental review process under NEPA as a vehicle for integrating other required environmental reviews and analyses related

to the proposal. Concurrent integration of all environmental requirements is a very important part of fulfilling my goal of making sure that the NEPA process is used to achieve informed decisionmaking in an efficient manner. It is simply not possible to make either wise or speedy decisions when essential parts of the analytical process are undertaken sequentially. We are quite pleased that the legislation incorporates this central, overarching mandate. I would add that in addition to integrating required Federal reviews, CEQ strongly encourages, where possible, integration of required reviews under other relevant State and local laws. In fact, TEA-21 specifically allows State agencies to do so.

Section 1309 also includes a specific provision to require the early identification of all Federal agencies, and, in certain instances, State agencies, with jurisdiction by law over issues related to a proposed project. CEQ regulations encourage the designation of agencies with jurisdiction by law as cooperating agencies. Cooperating agencies can participate in the NEPA process as soon as the identification of a proposal has occurred and they can also assume responsibility for preparation of a portion of the analyses within their area of expertise. The CEQ regulations provide for the designation of State, local and tribal governments as cooperating agencies. CEQ is currently circulating draft guidance that would address the role non-Federal agencies as cooperating agencies on a more routine basis. This would compliment the Interagency Memorandum of Understanding in circulation for signature now.

Section 1309 also mandates the establishment of timelines, in consultation with all involved Federal agencies, and incorporates the criteria set forth in the CEQ regulations for determining appropriate time limits for projects. We continue to believe this is a much wiser approach than attempting to mandate one timeline for all highway and mass transit proposals.

One of the most innovative features of Section 1309 is the provision that allows for the Secretary, at the request of a State, allow Federal-aid highway funds to be used to meet the provisions for enhanced environmental streamlining. CEQ has, for years, worked with agencies to promote the type of integration called for by TEA-21, and we know that there are many barriers to be overcome in achieving complete integration. Prominent among obstacles is lack of resources. If no one is available to review a draft document or travel funds are not available to attend an interagency meeting, the result is often further delay and frustration down the road. I appreciate concerns that use of this provision be carefully monitored, and I look forward to reviewing its implementation.

Finally, I know that the Department of Transportation will be working with other agencies to develop a detailed plan for how the dispute resolution provisions of Section 1309 will be implemented. As you may know, the CEQ regulations provide for a dispute resolution process triggered by Federal interagency disputes that have not been resolved by the time the final environmental impact statement is published. 40 CFR 1504 et. seq. However, we strongly encourage resolution of disputes well before that point in time, and I am hopeful that the strong mandate in Section 1309 will avoid the need for formal dispute resolution at the end of the process. I would also note that Congress recently established the U.S. Institute for Environmental Conflict Resolution under the auspices of the Udall Foundation. The Institute opened its doors for business last fall, and its expertise may be useful in helping to craft early and effective dispute resolution.

Mr. Chairman, let me assure you that CEQ is ready and eager to help the Department of Transportation and other agencies implement the provisions of Section 1309. The philosophy and mandate of the section mirror is our own view of how the environmental review process should work. I have made a commitment to increase our involvement in this area, and we are participating in interagency discussions on moving forward to implementation. We will also be working directly with the Federal Highway Administration and the Federal Transit Authority as they undertake the first revision of their NEPA procedures since 1987.

I want to temper my enthusiasm with the acknowledgement that while few people would dispute the desirability of the purposes underlying Section 1309, achievement is sometimes slow and difficult. It is, however, I believe possible. There has already been some notable progress achieved toward this direction. I understand that a representative from Washington State testified about progress made toward environmental streamlining at the hearing you held on April 29. Another example of outstanding progress can be found in Pennsylvania, where the State Departments of Transportation, Environmental Protection, Agriculture and the Fish and Boat Commission, Historic and Museum Commission and Turnpike Commission have joined together with the Federal Highway Administration, Environmental Protection Agency, U.S. Army Corps of Engineers and U.S. Fish and Wildlife Service in an extremely impressive and successful effort to substantially reduce both the time and paperwork associated with environmental review processes for highway projects in

that State. Those efforts were recognized by the Vice President in 1996 when the many agencies listed received a Hammer Award for their work in merging the reviews required under NEPA and Section 404 of the Clean Water Act. On the Federal front, I would also note the very recent publication of the new regulations implementing the National Historic Preservation Act (NHPA), published as final regulations just 3 weeks ago. Those regulations specifically provide that the NEPA process can be used to satisfy the requirements of Section 106 of NHPA. We believe this provision will do much to promote integration of historic preservation concerns within the NEPA process, and that development should be significant for the types of projects authorized by TEA-21.

Let me close by simply reiterating my enthusiasm for the direction Section 1309 provides, and my commitment to make sure CEQ supports its successful implementation. I will be happy to answer any questions.

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STATEMENT OF EUGENE A. CONTI, JR., ASSISTANT SECRETARY FOR  
TRANSPORTATION POLICY

Mr. Chairman and Members of the Subcommittee, I am pleased to appear before you today to discuss the Department of Transportation's implementation of the Transportation Equity Act for the 21st Century (TEA-21), specifically project delivery and streamlining. It is 1 year to the day that the President signed TEA-21, and I am pleased to have this occasion to speak to you.

I. INTRODUCTION

TEA-21 reflects the commitment of Congress and the Administration to invest in America's infrastructure in a fiscally responsible manner, while increasing safety, providing for a cleaner environment, and expanding opportunity. TEA-21 embodies President Clinton's vision of an integrated transportation system helping to ensure Americans' prosperity and quality of life in the new century. The Committee on Environment and Public Works is to be commended for its leadership role in shaping TEA-21 and the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA).

Secretary Slater has established an agenda for the Department to build transportation systems that are international in reach, intermodal in form, intelligent in character, and inclusive in nature. The various operating administrations within the Department work together and with others, including other Federal agencies, State, local, and tribal governments, industry, labor, safety and environmental protection groups, and the public at large to implement TEA-21, consistent with the intent of Congress.

The environmental streamlining provision (Section 1309) of TEA-21 requires the Department of Transportation to develop and implement a coordinated environmental review process for highway and mass transit projects. This provision reflects Congress' reaction to concerns expressed about delays, unnecessary duplication of effort, and added costs associated with the current process for reviewing and approving transportation projects. The chief objective is to focus efforts on better and earlier coordination among Federal, State, and local agencies. Congress reinforced this by allowing certain activities associated with streamlining to be eligible for Federal aid reimbursement. This aspect of the provision is essential to early coordination. I assure you that we at DOT are listening to the direction provided to us by this committee. We have heard those representing the transportation industry, environmental organizations, and others who have also testified before you. We are listening carefully to all of the concerns and viewpoints.

Section 1309 gives us new direction from Congress in streamlining the environmental review process. DOT sees Section 1309 as an opportunity to take our earlier process improvements further. We will do so with a focus on shaping environmental streamlining in ways that show measurable progress and demonstrate results. Moving projects through the review and development process faster, without compromising environmental safeguards, is a complex undertaking—one that takes place most effectively at the local level. Some results will come quickly; others more slowly; but they will be built upon work underway and past practices that provide a solid foundation for greater progress. We must also ensure that during the project development process, we adhere to all of the approximately 40 important environmental laws that apply to transportation projects.

Last week, we distributed a compendium of past and current successful programmatic agreements, memoranda of understanding, and partnering efforts to DOT field offices, packaged as "A Successful Practices Tool Kit." A copy was also provided to committee staff. This information will be accessible via the Internet on our Environmental Streamlining web site. It is just one example of what we have



done to encourage the State and regional offices to work with State and local partners to arrive at creative and flexible streamlining solutions sooner rather than later.

Jerry Alb, the Washington State Department of Transportation environmental services director, one of the witnesses at the April 29 hearing, told the Subcommittee about a number of innovative measures. These innovations are engaging environmental agencies and members of the public more fully in creating cost effective and timely approaches for addressing environmental issues relevant to transportation. The USDOT and EPA have been partners in that effort, providing funding, technical assistance and Federal buy-in that has been important to the success to date.

The process followed by the San Diego Association of Governments and Metropolitan Transit Development Board to plan the expansion of the San Diego light rail transit system is an example of an effective process for streamlining transportation projects. Preliminary Engineering (PE) was completed in less than 5 months. This abbreviated schedule for PE was possible due to the extensive public involvement and interagency coordination and follow-up analyses undertaken during the planning stage.

## II. APPROACH TO STREAMLINING

I would like to describe planned DOT efforts to advance streamlining efforts and tell you how what we have done over the past year is shaping the direction we are taking.

In March of this year, Secretary Slater invited his counterparts in other Federal agencies to cooperate in a multi-agency effort to develop joint environmental review processes. A Federal interagency meeting was convened April 6, 1999, to initiate the development of a streamlined environmental review process. We agreed to establish a national commitment among DOT and the Federal resource/environmental agencies to work collaboratively as partners to achieve the goals of TEA-21 through a National Memorandum of Understanding (MOU). We have established working groups among DOT headquarters and field organizations and with other Federal agencies that include the Corps of Engineers, the Environmental Protection Agency, the Department of the Interior, the Advisory Council on Historic Preservation, and the President's Council on Environmental Quality. We began meeting formally in April.

Over the past 2 months we have agreed upon and finalized the contents of the National Memoranda of Understanding (MOU), which is currently being circulated for agency concurrence. The National MOU establishes a national cooperative framework for State and regional collaborative efforts. Among other things, the agencies agree to identify solutions to reduce project delays by amending rules and policies where needed, defining a national process for conflict resolution, and committing to establish performance measures and benchmarks to evaluate transportation and environmental decisionmaking.

DOT is committed to public participation and keeping our stakeholders informed and involved as we implement environmental streamlining. We have been issuing environmental streamlining status reports on a regular basis. A Federal Register notice announcing the availability of our successful practices tool kit, the status of documents and ongoing activities and information about our streamlining activities will be published shortly. This ongoing information exchange will be facilitated through the Internet, specifically FHWA Office of Planning and Environment's web site: <http://www.fhwa.dot.gov/environment/index.htm>.

We met with the American Association of State Highway and Transportation Officials (AASHTO) on April 8, and June 7, 1999, to listen to the concerns of our State partners about streamlining the environmental review process. We have received views on this important issue from other stakeholders as well, including the American Public Transit Association (APTA), the American Association of Metropolitan Planning Organizations (AMPO), and the Coalition to Defend NEPA. We have continued to meet with CEQ, EPA, and the Army Corps of Engineers to ensure cooperation and collaboration on critical issues. Periodic public discussions and meetings open to all stakeholders are also planned.

In order to pursue sound solutions for addressing problem areas, we asked resource agencies and project sponsors to identify opportunities for collaboration and to identify challenges and problems that create the biggest obstacles to efficient project development. Many said that programmatic agreements, regional MOUs, less formal partnering efforts, support of pilot efforts, and training provide excellent opportunities for collaboration. They stated that many problems stem from lack of early involvement and consensus about the scope of the project, lack of trust or good

working relationships, lack of understanding of other agencies' missions/processes, poor quality of documents, poorly defined projects, and weak project oversight by both sponsoring and reviewing agencies, primarily at the State, regional and local levels.

Allowing additional costs associated with Federal agency compliance with deadlines to be considered eligible Federal aid project expenses will significantly assist project sponsors and their resource agency partners to redress some of these key problems. Draft guidance developed cooperatively with the resource agencies was circulated to the DOT field offices early in May. The guidance includes a discussion of additional opportunities to address staffing constraints, e.g., the use of Intergovernmental Personnel Act agreements. A key component of environmental streamlining is to involve all partners at the Federal, regional, State and local levels early in the planning (pre-scoping) and scoping stages, where environmental and other concerns can more easily be resolved.

On February 15, 1999, FHWA and FTA announced availability of an options paper and made it accessible on DOT's web site. The paper, titled "TEA-21 Planning and Environmental Provisions: Options for Discussion," was based on input received in our outreach efforts. The options paper sets forth a range of possible approaches, rather than giving guidance or stating the Department's preferences. It was intended to stimulate discussion, and indeed it did. To date, we have received over 150 sets of comments primarily from State DOTs, metropolitan planning organizations, environmental and transportation stakeholders, and a few citizens.

On the issue of environmental streamlining, most comments supported renewed efforts to reduce delays and a general endorsement of the types of approaches laid out in the options paper. A number of stakeholders indicated that they wanted to have an opportunity to comment further as we worked with other Federal agencies on interagency approaches for implementing environmental streamlining. Several commentors underscored the need to safeguard against attempts to shortchange environmental considerations in the interest of timeliness. A wide range of viewpoints has been reflected in the comments.

This comment process provided valuable insights and perspectives to us and to all who took part in it. Repeatedly, we have been encouraged to avoid prescribing a "one-size-fits-all" requirement for streamlining. We have been cautioned that streamlining initiatives need to be specific to the area and the partnerships that exist in those regions. They need to accommodate change easily and allow for flexibility.

We expect to publish a notice of proposed rulemaking regarding integration of planning, streamlining, and major investment study principles this fall, incorporating much of what we have learned from our partners and customers. We expect that this rulemaking will take some time to complete due to its importance and complexity, the great interest in it, and the wide diversity of views we must be sure to consider. DOT will also continue to vigorously pursue the many viable strategies for environmental streamlining, such as those already described, outside of the rule-making process.

Our commitment to streamlining can also be seen in our proposal to revise the rules for planning and environmental processes simultaneously. This approach can take advantage of potential efficiencies that can be gained by interconnecting these processes. Project by project studies can tell us a great deal about impacts in a community, but the issues associated with sprawl, air quality, community impacts, and overall process are best addressed at a system level. Our coordinated rulemaking will create a smoother, more fully integrated and efficient transportation decision-making process and will also achieve the outcomes intended in Section 1308 regarding Major Investment Studies.

### III. PERFORMANCE MEASUREMENT

We fully recognize the need for better baseline performance information so that we can gauge progress made in eliminating delays and in being good environmental stewards. The approach suggested by Tim Stowe, of the American Consulting Engineers Council, at the April 29 hearing warrants further investigation. He recommended that we use previous successes as a benchmark for future actions, and establish an objective monitoring system on which we can base performance measures. On May 21, 1999, we met with the Council to better understand their proposal. We strongly agree that this is a promising approach. We will also develop a broad set of measures to address the environmental component of the review process.

At the April 29 hearing, Chairman Voinovich expressed interest in measurement of progress in environmental streamlining. We have attempted to define the scope and the magnitude of the problem.

As a first step, we have compiled information on how long it currently takes for a project to go through the process. For example, for projects for which FHWA approved a Record of Decision (ROD) during 1998, the average duration of the Environmental Impact Statement (EIS) process from the notice of intent to prepare an EIS, to the ROD, was approximately 4 years. Federal transit projects range from 1.5 to 5 years, with an average of 3.5 years. Projects that require an EIS are, of course, the most complex projects—those with significant environmental impacts. The review processes may be shortened to less than 3 years in some cases, but that depends on the nature of the project, the extent to which there was early collaboration, and agreement upon the purpose and need for the project.

The level of analysis required under NEPA for particular types of actions will also affect how long it will take a project to move through the process. A look at FHWA's program in 1998 shows that 91.5 percent of the projects advanced were categorical exclusions (CEs), 6.1 percent resulted in findings of no significant impact (FONSI), and 2.4 percent were projects requiring full environmental impact statements. The project costs associated with a particular class of action are as follows: 67.3 percent of costs were attributable to projects advanced as CEs; 19.2 percent of funds were spent on FONSI projects, and 13.4 percent of program dollars went toward projects requiring EISs. As you can see, most federally funded transportation activities are categorically excluded from detailed environmental documentation.

However, it is important to note that an important purpose of the environmental review process under NEPA is public disclosure of the impacts and informing decisionmakers about impacts of proposed Federal actions for all projects. In the Federal-aid highway and Federal transit programs, the States, metropolitan planning organizations and local transit agencies choose the transportation improvements and services for which they seek Federal assistance. The environmental review process provides a forum for debate about proposed transportation actions. When there is not local consensus on a solution, the environmental process can be lengthened as public debate on a proposal continues.

As noted at the April 29 hearing by Roy Kienitz of the Surface Transportation Policy Project, projects that navigate the Federal approval process fall into two natural categories: first, those on which consensus has been reached locally, and second, those where strong disagreement still exists in the area where the project will be located. There is no reason why the Federal review process should be unnecessarily prolonged if there are no major disagreements. These represent the great majority of the projects. But in the second category, the small percentage of projects where profound disagreements over the wisdom of a project have not been resolved, the opponents can use the environmental review process to delay a project that they do not support. Mr. Kienitz suggested that our system allows us to say "not yet," but that it is difficult to say "no."

We fully expect to track our progress in implementing streamlining and follow-through with the agency commitments reflected in the National MOU. Recognizing how critical it is for all of us to live up to our commitment to this effort, especially at the most senior levels, DOT is proposing to convene one or two executive sessions a year that would be facilitated by a national expert and would result in a high level policy/problem solving discussion among Members of Congress, DOT, and the Federal resource agency appointees (i.e., those who sign the National MOU). These discussions may also include stakeholders such as the American Association of State Highway and Transportation Officials, American Public Transit Association, Environmental Commissioners of the States, National Governors' Association, Surface Transportation Policy Project, American Consulting Engineers Council, American Road and Transportation Builders Association, and others.

The purpose of these discussions is to engage Federal agencies and stakeholders at the highest level, to establish a common base of knowledge and understanding of the issues associated with environmental streamlining, the complexities of the NEPA process, and the perspectives of key groups. Most importantly, we believe this is an ideal forum to report to you on aspects such as performance measures and to receive feedback and evaluation of the progress that the agencies are making.

#### V. CONCLUSION

To summarize, DOT believes that successful implementation of environmental streamlining will need to be based upon a number of principles. First, we need a process that will ensure effective environmental decisionmaking in a timely way. Both transportation and environmental agencies will have to improve their environ-

mental review processes. DOT will provide national leadership on environmental streamlining, and will work with CEQ and headquarters offices of EPA, COE, F&WS, NPS, NOAA, the Advisory Council on Historic Preservation and others to obtain commitments to better decisionmaking. We fully expect to track our progress and follow through with the commitments reflected in the national MOU. Tangible progress will evolve locally, and State by State, at different rates, based largely on good working relationships and trust established within States and regions. Guidance on successful practices, pilot projects, and partnering efforts will be encouraged and supported. If used by States, the provision allowing resource agencies' work to be eligible for Federal aid reimbursement for the incremental cost of streamlining, can address staffing constraints of Federal resource agencies. We will work with other stakeholders to develop performance measures and benchmarks for environmental decisionmaking. Environmental streamlining will take hard work, trust building and successful partnering.

TEA-21 supports communities and States as they choose transportation facilities and services that best meet their priorities, through the metropolitan and statewide transportation planning processes. Communities can choose how to use Federal transportation dollars in conjunction with other community efforts to achieve new, more livable patterns of growth. A balanced transportation system is only one of a number of ingredients in community viability. Transportation planning works side by side with the development of decent housing, commercial investment, parks and recreation areas, good schools, and effective public safety to make our localities good places to live, work, and raise families. Over the past year, DOT has worked aggressively to deliver the opportunities available in all of the provisions of TEA-21 through a comprehensive, thoughtful, and deliberative process.

This concludes my testimony, Mr. Chairman. I would be happy to answer any questions you, or other members of the Subcommittee, may have.

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RESPONSES BY EUGENE A. CONTI, JR., TO ADDITIONAL QUESTIONS FROM SENATOR VOINOVICH

*Question 1.* How do you measure performance in terms of the average project? What length of time do you believe should be the target or goal?

Response. Currently, there is some anecdotal information and very little quantitative measurable data available for measuring performance of the "average project" on a national scale. The Federal Highway Administration (FHWA) is working to establish performance indicators that can be used to track baseline information and evaluate future actions.

The FHWA recently scanned basic data pertaining to those projects requiring the most rigorous level of environmental review, i.e., those requiring Environmental Impact Statements (EIS). Timeframes were tracked for all FHWA projects that had received a record of decision in 1998, beginning with the date the notice of intent (NOI) was announced. The NOI formally initiates the National Environmental Policy Act (NEPA) process. Of the 37 projects that fell into this category, 13 percent took 10 or more years to complete the NEPA; 19 percent were completed in 7-10 years; 16 percent were finished in 3 years or less. The majority of the projects (51 percent) took 4-6 years to complete. The 4-6 year timeframe probably represents a typical timeframe for typical projects requiring an EIS. However, any number of factors can affect the length of time the NEPA process takes. These factors might range from whether there was sufficient coordination and early involvement by appropriate review agencies, the extent to which the project is controversial, the quality of the data provided to the review agencies, and the overall complexity of the project. For example, a year or more can be added to the process if a project needs to address transportation conformity requirements for air quality.

At the June 9 hearing, we had estimated that a typical highway project may take an average of 4 years to complete the NEPA process. This was based on very preliminary and limited data. Further analysis confirms that this target is not unreasonable for an average project. It also directs our attention to the fact that about one third of the projects (32 percent) reviewed took more than 7 years to complete. These are the situations where we must concentrate our efforts to streamline the process. While our preliminary findings give us some useful insights about benchmarking, work is underway to develop more and better information about project timeframes and case histories to establish realistic targets and goals. At that time we will be able to determine appropriate targets and goals with a greater degree of certainty.

*Question 2.* Did you include any quality management practices in setting up your MOU?

Response. Participative decisionmaking techniques and cross functional teams were used to develop the national MOU. Representatives from Federal agencies representing headquarters staff were convened and interagency groups were formalized. They, in turn, coordinated with their field operations staff. A field staff working group representing FHWA and the Federal Transit Administration offices were engaged in the development of the MOU. They were encouraged to coordinate and solicit input from their State/local transportation and regional resource agency partners as well.

Discussions about the purpose, scope, and content of the MOU were used to: establish awareness of the legislative intent and requirements of section 1309; define the problem; assess the opportunities and challenges; identify possible ways to address them; and reach consensus on the national MOU. Several draft versions were circulated for review and comment. A number of meetings and conference calls took place. During these discussions, feedback was used to evaluate the MOU. Issues were clarified and revisions were made, ultimately resulting in an improved product—one to which the Federal agencies are willing to commit. The agencies involved in the MOU, including top management, various interest groups, and the public, were kept informed throughout the process.

The next step is to develop an action plan for implementing the MOU using quality management practices.

*Question 3.* As you know, many State and Federal agencies would like to move forward on projects in a faster manner, however they have expressed concern over personnel shortages in getting everyone to the table early on and throughout the process (this is a problem in my own State of Ohio). Are you proposing any additional personnel in the field to operate as additional contacts for agencies?

Response. The U.S. Department of Transportation (DOT) does not propose to add additional personnel to staff this effort. However, we will maximize the use of region and resource center staff whose role it is to provide technical assistance and training to the Division Offices and other partners such as the State DOTs and other resource center agencies. Headquarters will also provide support for expediting programmatic agreements, guidance and coordination needed at the national level to ensure State and regional efforts are successful.

Section 1309 allows States to use Federal aid to reimburse other Federal agencies for costs associated with activities that streamline the environmental reviews. This is a tremendous tool that will greatly assist field offices in meeting the demands that are hampered by resource constraints. The FHWA has already issued draft guidance to field offices to help States take advantage of this opportunity.

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#### STATEMENT OF AMERICAN TRUCKING ASSOCIATION, INC.

##### I. INTRODUCTION

The American Trucking Associations, Inc. (ATA) is the national trade association of the trucking industry. We are a federation of over 38,000 member companies and represent an industry that employs over nine million people, providing one out of every ten civilian jobs. ATA's membership includes 3,700 carriers, affiliated associations in every State, and 14 specialized national associations. Together, ATA represents every type, size and class of motor carrier in the country.

The Transportation Equity Act for the 21st Century (TEA-21) was landmark legislation that for the first time in 25 years tied Federal highway user fees to Federal funding for highways. The legislation's tremendous increases in highway investment will improve highway safety and facilitate the efficient movement of people and goods. Congress—in particular the lead authorizing committees, including the Environment and Public Works Committee—deserves enthusiastic applause for passing TEA-21. However, while TEA-21 helped to restore the public trust in the Federal Government to invest highway user money in highways, several potential problems are apparent.

In brief, ATA's concerns are as follows:

- We are concerned about the potential spread of Interstate tolls as the result of ever growing exceptions to the Federal ban on tolling existing, toll-free, Interstate highways.
- While we support common-sense, science-based environmental laws, we believe that certain groups are abusing these laws in pursuit of a narrowly focused campaign to prevent highway capacity improvements.
- Recent developments have placed at risk the timely replacement of the Woodrow Wilson Bridge over the Potomac River and created the potential for a truck ban

on the bridge. This would produce severe traffic problems for the Washington, D.C. region and jeopardize the safe and efficient movement of freight on the East Coast.

## II. CONGRESS SHOULD PREVENT THE SPREAD OF INTERSTATE TOLLS

TEA-21 included two pilot programs<sup>1</sup> that together would allow tolls on up to 18 sections of the Interstate Highway System. Participation is subject to approval by the Federal Highway Administration under guidelines established by Congress. These programs continue the erosion of the Federal prohibition on tolling existing free Interstates, a prohibition that was put into place because Congress recognized that charging motorists twice for the same purpose (through both tolls and user fees like fuel taxes) is inherently unfair. A proliferation of Interstate tolls would threaten the integrity of existing State and Federal user fees as the primary means of highway finance. Furthermore, allowing almost limitless flexibility for States to toll their Interstates could ultimately lead to a proliferation of toll booths as public officials discover that it is easier politically to impose user fees on the citizens of other States than it is to ask their own constituents to bear an additional financial burden.

Compared with traditional methods of raising money for highways, tolls are inefficient because they impede traffic flow; they cause safety problems because truckers and other motorists will take other—usually less safe—routes to avoid them; and tolls are less cost-effective than user fees already in place, since tolls require additional capital and administrative expenditures. One State that recently explored the possibility of Interstate tolls—Arkansas—found that of the \$1.8 billion it would raise in toll revenues, \$700 million, or 40 percent would have to be used for costs associated with building toll booths and maintaining the new bureaucracy needed to administer the tolls<sup>2</sup>.

The Federal Government has the responsibility to ensure the smooth flow of interstate commerce and travel. Congress must respond to this challenge by ensuring that tolls do not become a common feature of the Interstate Highway System. Senators Hollings (D-SC) and McCain (R-AZ) have launched such an initiative in the form of the "Interstate Tolls Relief Act of 1999" (S. 947). This legislation would eliminate the three-State TEA-21 pilot program and tighten the requirements for tolling an Interstate bridge. It also restricts expenditures from toll revenues collected on existing Federal-aid highways that were built as a toll-free road to the improvement and maintenance of the project being financed. The bill is consistent with the original intent of the exemptions' authors in that it still allows tolls to be used for financing bridge and tunnel projects that would be too expensive to fund using the State's normal State and Federal income. The legislation also does not affect existing toll roads. ATA urges the committee's support of S. 947.

## III. CONGRESS MUST PROTECT ITS COMMITMENT TO BETTER, SAFER HIGHWAYS BY PREVENTING ABUSE OF ENVIRONMENTAL LAWS AND GOVERNMENT-SPONSORED ANTI-HIGHWAY CAMPAIGNS

Congress authorized record highway investments last year to address the 42,000 annual highway fatalities, and the more than \$400 billion in annual societal costs<sup>3</sup> from crashes, congestion and environmental problems that are partly a result of deficient highways. Unfortunately, the commitment by Congress in TEA-21 to address these very serious societal problems is being subverted by local and national environmental groups who oppose any additional highway capacity, despite serious environmental, traffic or safety implications.

ATA supports established Federal environmental regulations. These laws have helped to reduce air quality emissions by 32 percent between 1970 and 1996, according to the Environmental Protection Agency (EPA). We will continue to support new or strengthened laws that have positive effects on the environment and are based on sound science and common sense.

However, ATA strongly opposes the tactics of those environmental groups who use Federal environmental regulations, such as the Clean Air Act (CAA) and the National Environmental Policy Act (NEPA), to override Federal, State and local political decisions by using the power of the Courts to their advantage. A recent witness before this subcommittee admitted that this is in fact an ongoing practice when he stated, in referring to the protracted legal battles that delay projects, sometimes for

<sup>1</sup> P.L. 105-178 sections 1216(a) and 1216 (b).

<sup>2</sup> Arkansas State Highway Commission. Draft Interstate System Reconstruction and Rehabilitation Pilot Program: Program Review, Feb. 1999, Table 1.

<sup>3</sup> Federal Highway Administration. 1997 Federal Highway Cost Allocation Study, Table V-25. Aug. 1997.

several years: "In the struggle between the proponents and opponents of a controversial project, the best an opponent can hope for is to delay things until the proponents change their minds or tire of the fight. It is the only option they have, and so they use it."<sup>4</sup>

Legal action is a generally accepted strategy for those seeking recourse in the face of an illegal or unjustified act. However, using the court system to advance a political agenda because all other avenues have failed is unacceptable, particularly when the results put lives and economic stability at risk. The 1991 Federal transportation bill recognized the value and necessity of citizen input in transportation decisions, and established unprecedented guidelines to ensure that the public's voice would be heard on major projects. TEA-21 extended these provisions even further. However, to some groups, no opinion is acceptable unless it is their own. They operate outside the bounds of the political decisionmaking process, using tools that Congress provided. Congress clearly did not intend that environmental laws would be used to force local planning decisions into being made by judges rather than within an inclusive political process.

These groups justify their attacks based on theories such as "induced congestion," i.e., additional highway capacity will inevitably produce so much new travel that the new highway becomes as crowded as the roads it was meant to relieve. This and other suppositions are used to try to explain the evolution of "urban sprawl," the spread of population into ever widening suburbs. In fact, a growing body of evidence suggests that these theories are dubious at best, that highway capacity expansion *does* reduce congestion, that sprawl is a result of factors other than new highway capacity and that the reduced growth policies these groups advocate may in fact contribute to sprawl and more traffic.<sup>5</sup> The views of these groups are extreme, and do not reflect the opinions of the mainstream academic community; most State, local or Federal transportation professionals; or, according to opinion polls, the views of the majority of the American people.

ATA requests that the committee investigate EPA's "Transportation Partners" program to determine whether the money is being used constructively and whether the EPA's administration of the program is consistent with Congressional intent. This program has given hundreds of thousands of dollars in grants to anti-highway groups for education and promotion of environment-friendly transportation alternatives. While these sound like worthy goals, and many worthwhile programs have likely resulted from the effort, a good deal of the money is used to offset the costs of litigation or the costs of "educational" programs designed to teach people how to use the courts to prevent highway projects from moving forward.

The Sierra Club, for example, has posted a hit list (see attachment) of highway projects throughout the country, including projects in Ohio, New Hampshire, Virginia and Florida.<sup>6</sup> The list includes projects such as the reconstruction and expansion of I-71 between Cleveland and Columbus. The Sierra Club argues that rail service could substitute for added highway capacity, even though the Ohio Department of Transportation found that rail would take just 419 vehicles off the road per day out of a total of 52,000 vehicles. Another project opposed by the Sierra Club—one facing devastating effects as the result of a successful environmental challenge—is the replacement of the Woodrow Wilson Bridge on the Capital Beltway (see discussion below).

This abuse of Federal environmental laws must stop. Senator Kit Bond (MO) has introduced legislation (S. 495) to curtail these abuses. S. 495 would end the onerous, counterproductive practice of withholding Federal highway money from States that do not meet Federal environmental standards. While withholding highway money may be a useful "stick" in EPA's efforts to enforce environmental laws, curtailing highway investment would prevent needed highway safety and capacity improvements that would, ironically, lead to further air quality problems in the future.

Senator Bond has also introduced legislation (S. 1053) that codifies into law a long-standing rule used by the EPA to "grandfather" previously-approved transportation improvement projects into air quality and conformity regulations in place

<sup>4</sup> Testimony by Roy Kienitz, Surface Transportation Policy Project, before the Subcommittee on Transportation and Infrastructure, April 29, 1999.

<sup>5</sup> See for example: Urban Transportation Center, Highways and Urban Decentralization, Executive Summary, University of Illinois at Chicago, 1998.; Pawlukiewicz, Michael, What is Smart Growth? Urban Land Institute, <http://www.uli.org/smartgrowth.htm>.; Giuliano, Genevieve, The Weakening Transportation-Land Use Connection, Access, Spring 1995, University of California Transportation Center.; Survey Results: Wisconsin Citizens on Land-Use, Common Ground, 1998.; DeCorla-Souza, Patrick, Estimating Induced Travel, Emissions and Benefits In Highway Corridor Analysis, p. 18. FHWA, 1999.; Heanue, Kevin, Highway Capacity and induced Travel, Issues, Evidence and Implications, Transportation Research Circular No. 481, Feb. 1998.

<sup>6</sup> <http://www.sierraclub.org/transportation/transportation/highways.html>

when the project began, so that the project would not be vulnerable to legal attacks based on unforeseen regulations and circumstances. A recent court decision overturned EPA's ability to use the rule.

ATA urges the committee's support for both Bond bills.

#### IV. CONGRESS SHOULD ENSURE THAT THE WOODROW WILSON BRIDGE IS REPLACED BEFORE TRAVEL MUST BE RESTRICTED

TEA-21 provided \$900 million for replacement of the Woodrow Wilson Bridge, located on I-95 in the Washington, DC area. The Wilson Bridge is the only Interstate bridge owned by the Federal Government. It has an expected remaining lifespan of just 5 years, and therefore must be replaced immediately by an expanded bridge that will meet the needs of local and interstate travel well into the next century. Congress expressed its interest in meeting these goals first in the National Highway System Act of 1995 and last year in TEA-21.

Unfortunately, a recent Federal court ruling threatens to undermine timely completion of the project. In response to a lawsuit by local environmental groups, the Court ruled that Federal environmental reviews are inadequate and ordered satisfactory completion of several environmental studies before construction can begin. Local authorities have stated that because of the 2-year delay caused by the ruling, by 2004 they will have virtually no option but to ban trucks from using the bridge in order to prevent the structure from failing. This would have the effect of diverting more than 14,000 trucks and other heavy vehicles to roads that are already heavily congested. The costs to the national capital region in terms of health, safety and economic damages are inestimable, and the long-term economic costs alone would likely approach or exceed those caused by our nation's worst natural disasters. Expedited Congressional action is the only feasible solution available to avert this impending crisis. Members of the Washington area delegation may soon introduce legislation to expedite the mandates in the Court's order and avoid having to impose weight limits, without undermining Federal environmental laws. ATA strongly encourages all Members to support this bill if it is introduced.

#### V. CONCLUSIONS

Congress showed great wisdom and foresight in passing TEA-21. The investments envisioned under this legislation promise safer, less congested and more environmentally efficient transportation systems. However, the looming problems described above threaten to derail this progress.

In short, ATA urges the committee to address the following issues related to TEA-21 implementation:

- Prevent the spread of Interstate tolls—support S. 947.
- Protect the committee's commitment to better, safer highways by preventing abuse of environmental laws and government-sponsored anti-highway campaigns—support S. 495 and S. 1053.
- Ensure that the Woodrow Wilson Bridge is replaced before travel must be restricted.

We appreciate the opportunity to submit this statement and will be happy to answer any questions.

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#### HIGHWAY PROJECTS OPPOSED BY THE SIERRA CLUB

See <http://www.sierraclub.org/transportation/transportation/highways.html> for details

#### CALIFORNIA

- CA, OR, WA—US 395 from Canada to Mexico, NHS "high priority corridor" authorized by Section 1105 of ISTEA in 1991
- CA, Mendocino County—Wilets HW 101 Bypass
- CA, Sonoma County—Hw 101 Expansion
- CA, Solano & Contra Costa Cos—Martinez Bridge Expansion
- CA, Marin County—Highway 101 Gap
- CA, Alameda Co—SR238 Foothill Freeway, Hayward Bypass
- CA, Yosemite National Park—widening and straightening the El Portal Road in Yosemite
- CA, Monterey County—Hatton Canyon Freeway, Hwy 1
- CA, Cuesta Grade Widening Project, San Luis Obispo County
- CA, Santa Barbara County, Hw 1 Widening
- CA, Fresno—Urban Freeway 168



## 340

- I-40, the freeway in the parkway
- CA, Los Angeles County—710 extension, So. Pasadena Freeway
- San Diego County, SR 125 Tollway South

### COLORADO

- CO, Aurora—E470 extension
- CO, W-470 in western Jefferson County to Adams County—Northwest beltway
- CO, Mt. Evans Wilderness, Guanella Pass Road
- West 72nd Avenue Extension, Arvada

### FLORIDA

- Chuluota By Pass

### GEORGIA

- GA—Outer Loop or Outer Perimeter around Atlanta

### INDIANA

- IN, I-69: New Freeway through southern Indiana

### LOUISIANA

- Baton Rouge, Louisiana/Baton Rouge Bypass

### MARYLAND

- Montgomery County, Maryland, Montrose Road near 1270. Montrose Parkway
- MD, Montgomery Co—The InterCounty Connector (ICC)

### MINNESOTA

- MN/WI border, St. Croix Bridge
- Minneapolis, MN Hwy. 55 Re-route
- MN—Duluth to Winnipeg, Manitoba, truck highway

### NEW HAMPSHIRE

- Manchester Airport Access Road Project

### NEW MEXICO

- Paseo del Norte Extension

### OHIO

- Cincinnati, OH, Red Bank Road Connector
- Cincinnati, OH, the Eastgate Parkway
- I-71 Widening between Cleveland and Columbus
- Spring/Sandusky Interchange in Columbus
- I-73/I-74 Across the State of Ohio

### TENNESSEE

- Nashville, Highway 840

### TEXAS

- Austin, Texas; Texas State Highway 130

### UTAH

- The proposed 120-mile Legacy Highway

### VERMONT

- Vermont, Chittenden County, Circumferential Highway

### VIRGINIA

- Route 28, from Manassas to Route 29
- The Charlottesville Route 29 Western Bypass
- Interstate 73. Virginia, currently Roanoke—NC State Line (study corridor includes Salem, Roanoke City, Roanoke Co., Botetourt Co., Bedford Co., Franklin Co., Henry Co.); final project will include WV State Line—Roanoke

WEST VIRGINIA

- WV—Appalachian Corridor H Highway, West Virginia Highway

WISCONSIN

- WI—Hwy 12 Madison to Sauk City

